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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. PEASE).

REVISED NOTICE—NOVEMBER 17, 1999

If the 106th Congress, 1st Session, adjourns sine die on or before November 18, 1999, a final issue of the Congressional Record for the 106th Congress, 1st Session, will be published on December 3, 1999, in order to permit Members to revise and extend their remarks.

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If the 106th Congress does not adjourn until a later date in 1999, the final issue will be printed at a date to be announced.

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WILLIAM M. THOMAS, *Chairman.*

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MICHAEL F. DiMARIO, *Public Printer.*

DESIGNATION OF THE SPEAKER PRO TEMPORE

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

U.S. HOUSE OF REPRESENTATIVES,
WASHINGTON, DC,
November 17, 1999.

I hereby appoint the Honorable EDWARD A. PEASE to act as Speaker pro tempore on this day.

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

PRAYER

The Reverend Duane Carlson, Pastor Emeritus, St. Mark's Lutheran Church, Springfield, Virginia, offered the following prayer:

O God, we are bold to ask that You deliver us.

Deliver us from failure of moral fiber in our citizenship, from the counting of things material above virtues spiritual; deliver us from vulgarity of life, loss of social conscience and collapse of character.

Deliver us by the deep faiths on which the foundations of our land were laid and the sacrifices of the countless who have gone before us; by the memories of leaders of this Nation whose wisdom saved us, whose devotion chastens us, whose character inspires us.

Keep us from pride of mind and boasting, but deliver us by our devotion to You and the principles You have revealed for our edification and the strength of our society. Deliver us by our insistent prayer for a world of peace and prosperity for all people. Lord God, hear our prayer and mercifully bless not only us who have been chosen to guide, but bless all our people by Your grace and power. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

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

Mr. WELDON of Florida led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain 15 1-minute requests on each side.

MORE TIME THAN MONEY

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

Mr. WELDON of Florida. Mr. Speaker, a few months ago we made a commitment to the American people to lock away every penny of the Social Security surplus so that Washington big-spenders could not keep raiding the funds to spend on government programs. Now, we have the opportunity to meet this commitment if only President Clinton will stop playing partisan games with the retirement dollars of hard-working Americans.

When the President says, we cannot trim waste 1 percent from the massive Federal budget in order to protect Social Security, I cannot help but question his priorities. Paying for more wasteful spending of taxpayer dollars, or protecting Social Security. The choice is simple.

As we close in on a final budget, let us be very clear on one thing: we will not go home until every penny of the Social Security Trust Fund is protected and we are not going to raise taxes on working Americans, and we are going to keep the budget balanced.

We have more time than money, and we will use whatever time is necessary to get the job done.

EXPEDITED RESCISSION LEGISLATION

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

Mr. STENHOLM. Mr. Speaker, we have heard a lot of rhetoric, but no legislation from the other side of the aisle about protecting the Social Security surplus and eliminating wasteful spending, even though the appropriation bills passed by the majority would have spent $17 billion of the Social Security Trust Fund before the final budget negotiations even began.

I am introducing legislation today that will give the President the ability to help the majority put some reality behind their rhetoric. This legislation known as ''modified line-item veto,'' or expedited rescission, would strengthen the ability of Presidents to identify and eliminate low priority spending with the support of the majority in Congress.

Under this bill, the President would be able to single out individual items in tax or spending legislation and send a rescission package to Congress which would then be required to vote up or down on the package.

Senator JOHN MCCAIN and others have identified $13 billion of low-priority or special-interest spending. Instead of subjecting these spending items to scrutiny, the majority has proposed an across-the-board cut that treats good programs the same as low priority and wasteful spending.

I urge my colleagues to join me by cosponsoring this legislation.

BUILDING UPON OUR SUCCESSES

(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, after the rhetoric of the last speaker, let us come back to reality for just a moment. This Congress has succeeded in passing many pieces of meaningful legislation this session.

We have passed bills which have granted more local control over our education and funding decisions and we have sent that control and those decisions to our States and local school districts. We passed legislation which provided a much-needed pay raise for our military personnel, and we funded the replacement of old equipment, strengthening our armed forces. We made it a national policy to fund and deploy a national missile defense system.

This Congress has succeeded in addressing these and other important issues to strengthen our country, including saving Social Security. Now, Mr. Speaker, we are faced with one final task, legislative task, that is, eliminating wasteful government spending.

Let us build upon our success and pass bills which fund the necessary programs, but do not waste the hard-earned tax dollars of Americans.

Mr. Speaker, this Republican-led Congress has successfully passed important and responsible legislation, and we can do it again.

TAKE PORK OUT OF SPENDING BILL

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

Mr. MINGE. Mr. Speaker, we have essentially a colloquy here this morning, and I would like to join with my colleague from Texas (Mr. STENHOLM) in pointing out the irony of what is happening.

We are dipping into the Social Security Trust Fund, according to the leadership's plan, by at least $17 billion. We are cutting across the board, or proposed to have cut, 1 percent. But at the same time, as Senator MCCAIN, a Republican, has pointed out, we have billions and billions earmarked for pork barrel projects.

As the cochair of the House bipartisan Pork Barrel Coalition, I am strongly opposed to this type of pork barrel spending, and I call on our leadership here in the House of Representatives and in the Senate to excise all of these earmarked projects from this massive bill that is to be presented to us this week. If we would take that one simple step, we would be able to avoid going into the Social Security Trust Fund.

We owe it to our Nation's seniors, and we owe it to the next generation to take this modest step.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded that they are to refrain from urging action by the other body.

PARENTS AND TEACHERS, NOT WASHINGTON BUREAUCRATS, KNOW WHAT IS BEST FOR OUR CHILDREN

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

Mr. CHABOT. Mr. Speaker, in 1992, then Governor Bill Clinton, in his campaign treatise, putting people first, said that we need to, and I quote, ''grant expanded decision-making powers at the school level, empowering principals, teachers and parents with increased flexibility in educating our children.'' That was back in 1992.

In 1999, President Clinton has drastically changed his tune. When asked just last week about State governors wanting more freedom from Washington education bureaucrats, he expressed irritation. I will again quote: ''because it is not their money,'' he said. If they don't want the money, they don't have to take it.

With that response, President Clinton summed up the utter arrogance of Washington's liberal elite who really do believe that big government knows what is best for the hard-working Americans who earn those tax dollars.

Mr. Speaker, it is their money. Let us send it back to those who earned it and know best how to spend it.

WASTING AMERICA'S TAX DOLLARS IN RUSSIA

(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, since 1992, Uncle Sam has given Russia billions of dollars to dismantle their weapons of mass destruction. Now, who is kidding whom? Instead of dismantling, reports say Russia has built missiles, submarines, and more nuclear warheads. If that is not enough to gargle with vodka, the report said that Russia just bought 11 strategic bombers and 500 additional cruise missiles. To boot, they say what they did not spend, those Communist stole and pocketed for themselves.

Unbelievable. Whatever happened to President Reagan's policy: Trust, but verify. It has turned into turn the other cheeks.

Beam me up, Mr. Speaker. Boris might have fallen, but he keeps getting up with our cash.

I yield back the nuclear waste of our tax dollars spent in Russia.

STOP BALANCING THE BUDGET ON THE BACKS OF OUR SENIOR CITIZENS

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

Mr. PITTS. Mr. Speaker, although the Democrats claim they are the stand-alone founders and saviors of Social Security and Medicare, their actions of late have proven just the opposite.

Our Vice President, Mr. GORE, and the gentleman from Missouri (Mr. GEPHARDT), our minority leader, have both claimed that no Republicans voted for the establishment of Social Security. False.

Here are the facts. When the House passed the 1935 Social Security Act on April 19, 1935, 79 percent of the 97 Republicans voted for it: ''Aye.'' When the Senate acted on June 19, 1935, 75 percent of the 20 Republicans voted ''aye.''

Now, claims like those we are hearing suggesting that Democrats have created everything from Social Security to the Internet are quite amusing. Yet, the debate over the future of our most important social program is no laughing matter. Today's debate should really be about whether or not we are now keeping the Social Security Trust Fund safe from a Democratic raid to pay for new programs, something they have done for over 30 years.

We must stop balancing the budgets on the back of our senior citizens.

DO-LITTLE CONGRESS

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

Mr. STUPAK. Mr. Speaker, here we are in mid-November and quite frankly, the Republican-led Congress has done very little. The appropriation bills languish and the needs of the American people are not being met. Now we seem to be arguing over fourtenths of 1 percent of a cut.

Instead, the American people asked for things that cost very little and would improve their lives, like a Patients' Bill of Rights so patients and doctors can make their medical decisions; like an increase in minimum wage so everyone can enjoy the strong economy; like 100,000 more teachers so that we can have smaller classes. And, Mr. Speaker, why can we not provide prescription drug coverage for all of our seniors.

Mr. Speaker, let us work for the American people. Unfortunately, under the Republican-led Congress, it is always the same old song. Tax breaks for the rich and a tax on government.

America wants a Congress that works for them like Democrats are fighting for, for 100,000 teachers, 50,000 new police officers, a real Patients' Bill of Rights, protecting our environment and providing prescription drug coverage for all seniors, all paid for, all paid for without busting the budget or raiding Social Security.

RHETORIC AND WASTE IN WASHINGTON

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

Mr. STEARNS. Mr. President, come home and solve this final budget problem that we have here. We may again have an across-the-board reduction in spending to finally find the offsets to cover the additional spending the President wants to put forth. We need him to return from all of these foreign affairs trips he is taking.

It is too bad I only have 1 minute here, because I could go on for hours about the waste, fraud, and abuse in the Federal Government. He claims we cannot reduce by one penny out of $1 waste, fraud and abuse.

Here is an example. Mr. Speaker, $14.2 billion that was for low-income tenants for privately owned apartments at the Department of Housing and Urban Development was kept in check and used in other Federal programs. In fact, $11 billion was used for additional spending in other programs that we did not even know where it went. This kind of management is simply outrageous.

Mr. President, we need you to come home. We can find one penny's worth much waste fraud and abuse in every dollar we spend around here in Washington.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded that they are to address their remarks to the Chair.

WALKING PAST THE GRAVEYARD OF GOOD LEGISLATION

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

Mr. WYNN. Mr. Speaker, today the Republicans and the Republican leadership are moving toward the last days of the session. They are on their way out of town. Unfortunately, on their way out of town they are going to have to walk past the graveyard of good legislation. Therein lies prescription drug coverage for seniors, much-needed, much-worked on, but killed by the Republicans. In the graveyard of good legislation also lies HMO reform. Our desire on the Democratic side to pass a real Patients' Bill of Rights which would give citizens the right to sue, killed by the Republicans.

They have to walk past the graveyard that contains common sense gun legislation which they failed to pass so

that we could control the gun show loophole and bring sanity to the mass hysteria that is going on in terms of gun violence. Finally, they have to walk past the graveyard of good legislation wherein lies the minimum wage bill.

Mr. Speaker, we simply wanted to give working Americans another dollar in earnings over 2 years, a dollar over 2 years, killed by the Republicans.

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So on their way out of town as they walk past the graveyard, they might remember that the ghosts may rise up to haunt them.

REPUBLICANS STAY ON THE JOB, WHILE DEMOCRATS RAISE FUNDS

(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, let me yield the floor to the gentleman from Maryland (Mr. Wynn) who spoke before me and ask if he can tell me where his Majority Leader was yesterday when we were trying to save Social Security and put local flexibility in education and try to pass a pay raise for our soldiers.

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

Mr. KINGSTON. I yield to the gentleman from Maryland.

Mr. WYNN. Mr. Speaker, I am sure he was hard at work, our leader.

Mr. KINGSTON. Mr. Speaker, reclaiming my time, the gentleman's leader was actually fund raising. He was not on the floor of the House. His leader was fund raising. There we have it.

Mr. Speaker, we have got a situation where the Democrats are claiming we are doing nothing, but their leader was fund raising yesterday while we were trying to save Social Security, while we were trying to put educational flexibility in, while we were trying to raise the pay raise for our soldiers, and while we were trying to find one small, actually now it is a half-cent in the dollar to cut the bureaucracy to preserve and protect Social Security. The Democrat leader was home fund raising.

Well, I hope he made a lot of money, and I hope it was successful. But the Republicans were here. We showed up for work. We are paid $134,000 a year. We should be here working. We should not be out fund raising on taxpayers' time and money. Come help and protect Social Security.

HURRICANE LENNY

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

Mrs. CHRISTENSEN. Mr. Speaker, as we meet this morning, my district, the U.S. Virgin Islands, is awaiting a direct hit in the unexpected and unpredictable Hurricane Lenny, now a category 4 storm with 135 mile per hour winds.

The major storm winds will first hit St. Croix at around 12 p.m. Atlantic Standard Time, and is expected to have a direct impact on the Hess Oil refinery, the largest in this hemisphere which is based on St. Croix. It has closed and is taking the necessary precautions to prevent major damages, as is the nearby alumina plant.

While the Virgin Islands has been declared one of the most prepared districts under FEMA's project Impact preparedness program, we are still asking for our colleagues' prayers at this time, especially the neighborhood surrounding these two plants.

Mr. Speaker, too often, the fate of the U.S. Virgin Islands are overshadowed during hurricane coverage, but we have been affected to some measure by most major storms in recent years. We ask everyone to keep us in their thoughts and prayers during this time, and we ask in advance for support for our recovery and for our ongoing efforts to address the ongoing financial crisis which makes this hurricane an even more serious threat to us.

THE KIND OF RELIEF AMERICA NEEDS

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

Mr. BARTLETT of Maryland. Mr. Speaker, call me a skinflint, but I think a million dollars is a little too much to spend on building an outhouse. But, apparently, the National Park Service disagrees, because that is just how much it spent to build an outhouse at Glacier National Park in Montana.

That is $1 million of the taxpayers' hard-earned dollars.

To get to this outhouse, should one need such relief, one need only hike 6½ miles from the nearest road and climb 7,000 feet. It took more than 800 helicopter drops and hundreds of horse trips to get the construction materials to the site. That is a lot of hassle; but, hey, it does have a complete septic system.

Mr. Speaker, this is exactly the kind of waste that needs to be trimmed out of the Federal budget and is an example of how easy it will be for agencies to cut a penny from every dollar. That is all it will take to stop the 30-year raid on Social Security.

Mr. Speaker, now that is the kind of relief America needs.

CONGRESS STILL HAS UNADDRESSED ISSUES TO CONFRONT

(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 Republican leadership is packing its bags. It is heading for the exits without addressing the most critical needs of American families. This summer, they tried to spend a historic surplus on an irresponsible tax plan that would have benefited only the wealthy. Now they are planning to leave town without taking meaningful steps to make our communities safer and our families stronger.

The list of items killed by the Republican leadership is long. The Patients' Bill of Rights, campaign finance reform, and Medicare prescription drug benefits, extending the life of Medicare and Social Security, sensible gun safety, minimum wage.

Time and again, the Republican leadership has joined with special interests to bury important legislation that, in fact, would have improved the lot of American families. One of the most critical items to fall by the wayside has been sensible gun safety legislation. Common sense should be applied when it comes to the safety of our schools, our neighborhoods, office buildings, and places of worship.

Mr. Speaker, this Congress should not adjourn without closing the loopholes that lets guns fall into the wrong hands. It is time for responsible action.

ACROSS-THE-BOARD CUT IS A REASONABLE APPROACH TO FEDERAL BUDGET

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include therein extraneous material.)

Mr. SMITH of Michigan. Mr. Speaker, just as a follow-up to the previous speaker, I wish everybody, Mr. Speaker, could read the editorial in the Wall Street Journal today. It conveyed the message that part of the reason this economy is doing so well is Congress is staying out of its way. And yet some people say, let us pass more legislation. Let us do more things, increase taxes, make it tougher for business to succeed and end up increasing the tax revenues that come to this government.

We have been working at this budget for the last 9 months. Now we are saying after all of the gives and takes, the compromising here is our best effort level of spending prorated among different programs. Now we have calculated that in order to save the Social Security surplus, we need to cut about 1 cent out of every dollar that is now proposed to be spent across the board for discretionary programs. Not leaving it up to the President to cut Republican programs, not leaving it up to the Republicans to cut Democrat programs.

Mr. Speaker, an across-the-board cut is reasonable. Let us do it and get on with this budget and let us have a new beginning to save Social Security.

CONGRESS' UNFINISHED BUSINESS SHOULD BE ATTENDED TO

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

Mr. TIERNEY. Mr. Speaker, it is interesting to hear our colleagues on the other side of the aisle tell us that they want to keep government quiet and not do any business. One Member, in fact, was quoted as saying that this last session was a ''legislative respite.''

In fact, there is unfinished business; and the American people do want Congress to attend to that business, not the least of which would be prescription drug relief. Anybody that goes back to their district and talks to anyone, particularly seniors, understands that this Congress has been derelict in its duty to not address the high cost and lack of accessibility and affordability for prescription drugs, particularly to seniors.

Mr. Speaker, we have the Prescription Drug Fairness for Seniors Act that has not seen any action by this House, which some estimate would save 40 percent on the cost of prescription drugs. We have a health care delivery system that is in need of attention. The American people would be the first to step forward and say this is a role for government to come in and provide some focus and some attention and some direction. HMOs are in trouble. Hospitals are having difficulty making ends meet. They are closing down, leaving some patients in the position of having to drive miles and miles just to get emergency care and other relief.

We have the Patients' Bill of Rights that passed this House and now is languishing somewhere in the netherland.

Mr. Speaker, we need some unfinished business to be attended to.

OMNIBUS APPROPRIATION BILL MAY CONTAIN TAX RELIEF FOR ONE ALREADY WEALTHY MAN

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

Mr. DUNCAN. Mr. Speaker, every time we have one of these year-end omnibus appropriations bills, it always becomes sweetheart deal time.

The Washington Times reports on its front page today that the White House and some Members of Congress are attempting to give a $238 million tax break to just one man, Abe Pollin, owner of the Washington Wizards basketball team.

Mr. Speaker, this tax break would help defray costs Mr. Pollin incurred in building the MCI Center, which he owns and from which he will make millions.

The Times story says, ''The House and Senate are considering whether to include in an omnibus spending bill a retroactive, 5-year tax credit so narrowly tailored that it would benefit only Mr. Pollin . . . .''

The Times quotes one Senate tax aide as saying, ''My jaw dropped. It's so bad, it's not even funny. This is just gross.''

Mr. Speaker, if Mr. Pollin pulls off this sweetheart $238 million tax break, he is more of a wizard than his players. Mr. Speaker, no one should vote for a bill that contains an insider multimillion dollar tax break like this that benefits just one already very rich man.

DEMOCRATS CREATED SOCIAL SECURITY

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

Mr. CROWLEY. Mr. Speaker, I was listening very closely to the comments of my colleagues on the other side of the aisle this morning. I felt compelled to come down here again to once again, unfortunately, to those who watch C–SPAN on a regular basis, to give another history quiz, another history lesson.

Mr. Speaker, who was it back in 1935 that created Social Security? The answer is a Democratic President and a Democratic Congress. Only one Republican stood up and voted with the majority at that time to not recommit Social Security. A motion that would have destroyed and killed Social Security as we know it today. A gentleman by the name of Frank Crowther from my home State of New York stood up against the tide of his own party and said, ''No, I will not destroy Social Security.''

Mr. Speaker, Social Security was created because over 40 percent of the population at that time in our country were dying in poverty. They had nowhere else to go. They were dying in poverty.

Social Security has enabled young families to save, send their kids to school, to college. It has meant the wealth to this country, and now we expect the Republican side of the aisle to save it? Give me a break.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Members are reminded that their remarks are to be addressed to the Chair, and not to the viewing audience.

FAT SHOULD BE CUT FROM THE BLOATED WASHINGTON BUREAUCRACY

(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, I want to take a minute to set the record straight. While the Democrat leadership was out of town yesterday raising money, we were fighting for American families by strengthening education, our defense system, and protecting Social Security surplus.

We have heard a lot of wild accusations being thrown around, and I guess the liberals think that if they throw enough mud, maybe some of it will stick. But we are protecting the Social Security surplus, and we voted to ensure that by taking a 1 percent across-the-board savings.

Now, the liberals claim that our effort to trim waste and fraud and abuse in the Washington bureaucracy, and not threaten important programs, will somehow be overwhelming. But this plan will protect Social Security and restore fiscal responsibility in Washington. This is just a common-sense proposal that gives the Department and agency heads leeway to trim the waste, fraud, and abuse they find in their budgets. We are not mandating specific cuts, so if important programs get slashed and the administration suggests that it is the right thing to do, then because they have decided to do it, let it be.

Mr. Speaker, we all know that fat should be cut from the bloated Washington bureaucracy, and we can protect Social Security and Medicare by making sure the savings do happen.

DEPARTMENT OF EDUCATION CANNOT COUNT

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

Mr. SCHAFFER. Mr. Speaker, tomorrow the Department of Education will make an announcement that should concern every one of us. The Department will announce that since 1998, its books are unauditable.

This is an agency that receives an annual appropriation of $35 billion and manages another $85 billion in a loan portfolio. A $120 billion agency that cannot account for its spending.

Now, I suggest that the President, when he comes back, he is in Turkey this week, and the minority leader when he comes back from the West Coast from his fund-raising expedition, when these folks come back to work, that they join the Republicans here to correct the mismanagement of the Department of Education. Because, Mr. Speaker, the children of America do count. Unfortunately, the Department of Education cannot count.

MINORITY LEADER SHOULD COME HOME AND JOIN THE FIGHT TO SAVE SOCIAL SECURITY

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

Mr. HAYWORTH. Mr. Speaker, I am so sorry the gentleman from New York left the Chamber, because I would be happy to offer a current events quiz. Here is the question: Where was the

gentleman from Missouri (Mr. GEPHARDT), minority leader of the United States House, yesterday?

Answer: Raising campaign funds on the West Coast.

But I thought he wanted to reform campaigns. Oh, but not necessarily so. And besides, we all know, Mr. Speaker, that for that crowd to talk about campaign finance reform is a bit akin to having Bonnie and Clyde come out for tougher penalties against bank robbery.

But at any rate, the gentleman from Missouri (Mr. GEPHARDT) was away.

How can we get our work done? He should have a seat at the table, and he should join with us to save one penny on the dollar for every dollar of discretionary spending, so that the government can live within its means and quit the raid and continue to cease the raid on the Social Security Trust Fund.

Mr. Speaker, I would invite the minority leader to come back to town and go to work and join with us and realize that a penny saved is retirement security.

PARTIES TO THE BUDGET NEGOTIATIONS ARE AWOL

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

Mr. PETERSON of Pennsylvania. Mr. Speaker, I find it disappointing. As we try to bring this budget to conclusion, as we try to finalize the negotiations, we have major people that are a part of this process that are AWOL. They are absent.

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How does the Speaker of the House who has to negotiate with the President stay up late at night every night so he can call the President in Turkey? Is that the way to negotiate?

In Pennsylvania where I come from, if the governor or if his cabinet left town during those final negotiations, the press would have been all over them. Why is it possible for the President, the minority leader, who was away yesterday who is the one who is opposing any kind of trimming of waste or fraud, he is the one who is holding out, but he is not available to negotiate yesterday? That is why this process has run on. The President is just finishing his second trip abroad since October 1, and this is when we have been trying to finalize the budget.

I believe, Mr. Speaker, it is important for those who are a part of this negotiating process to stay in town, get the work of the American people done, so we can pass the budget that does not rob Social Security.

CONGRESS HAS MORE TIME THAN TAXPAYERS HAVE MONEY

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

Mr. THUNE. Mr. Speaker, it is November 17, and we are still here for one reason, and that is that we have got more time than the American taxpayers have money.

This Congress has passed all 13 appropriation bills. The President has chosen to veto 5 of those bills. Why did he veto them? Because they did not spend enough money. So we are still here negotiating with all the President's men since he is traveling abroad.

The minority leader is traveling in California raising campaign cash. We are still here until the President agrees with us on a budget that does not raid Social Security, does not raise taxes, and rids the budget of waste, fraud, and abuse.

We will stay here as long as it takes until the President gets back and the gentleman from Missouri (Mr. GEPHARDT) gets back from his California dreaming.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2000

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 381, and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 381

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 80) making further continuing appropriations for the fiscal year 2000, and for other purposes. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit.

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

Mr. GOSS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MOAKLEY), my friend, the distinguished ranking member; pending which I yield myself such time as I may consume. During consideration for this resolution, all time yielded is for the purpose of debate on this subject only.

Mr. Speaker, H.Res. 381 is a closed rule waiving all points of order against consideration of H.J.Res. 80, the continuing resolution that we have before us later today. The rule provides for 1 hour of debate, equally divided between the chairman and ranking member of the Committee on Appropriations. Finally, the rule provides for one motion to recommit.

Mr. Speaker, Members will know that this is an appropriate and traditional rule for a consideration of a clean continuing resolution. Members who have any kind of memory at all will remember that we have done these kinds of things recently in the past.

Given the complex negotiations that have been under way about the budget, and they have, indeed, been complicated by the fact that some of the principals are out of town for whatever reason, it is regrettable that, at a time that we are struggling so hard, that the President finds it necessary to be out of the country, and the minority leader finds it necessary to be out of the capital.

But, nevertheless, Americans come to understand that continuing resolutions, which keep the government functioning at last year's levels, are a necessary tool to facilitate bringing closure to the budget debate which we normally have this time of year.

In order to avoid a partial government shutdown, which we certainly want to do, we have proposed another straightforward extension in the deadline, and that is until tomorrow. We have made significant progress toward final agreement, but we must be certain that we do the right thing, not simply the most expedient to get out of town because the folks would like to go home.

In this case, the right thing is very clearly to provide for important government programs without touching the reserves in the Social Security Trust Fund, not one dime. That has been the goal of our majority from the outset of this year's budget process; and while it has taken some time to convince some of our friends on the other side of the aisle and downtown that this fiscal discipline is, indeed, necessary, we now have everyone working from the same set of guidelines. We just have to keep reminding them of the guidelines.

It has also taken some time to convince the White House that increasing taxes and using part of the surplus, as has been suggested by the White House, are not acceptable approaches to the majority on the Hill.

I am hopeful that this brief extension will provide both ends of Pennsylvania with the requisite time to hammer out our final spending bills in a responsible way. In fact, I understand that the bills individually, the five that have been vetoed by the President, are virtually resolved.

It is a no-nonsense CR that we are proposing here. I think it should be unanimously adopted. I am certainly urging a yes vote on the rule. I am not sure why we are having a rule instead of a unanimous consent; but for whatever reason, we are having a rule vote. I can think of no reason to vote against it. I urge a yes vote.

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 the slender gentleman from Florida (Mr. GOSS), my good friend, for yielding me the customary half hour.

Mr. Speaker, the end is finally in sight. Forty-eight hours after the start of the fiscal year, it looks as if the appropriation process is just about over.

This continuing resolution will extend our Federal funding until tomorrow, which should be all the time that we need.

My Republican colleagues sent President Clinton eight appropriation bills that he signed into law. The other five bills have been rolled into one omnibus bill, which should be finished sometime today. Once that bill is signed, Mr. Speaker, we no longer have to worry about the possibility of the Federal Government closing down, and Congress can get started on the next appropriation cycle.

Mr. Speaker, the appropriators and the administrators have been working very hard to resolve a lot of outstanding issues, and I wish them well in their final negotiations. I urge my colleagues to support this continuing resolution.

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

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

Mr. Speaker, we on the Committee on Rules are on virtually perpetual standby these days, and I would like to point out that there is a little confusion among Members this morning about whether it is a 1-day CR or a 2-day CR. Apparently there were some documents put out through the various organizations on either side that indicated that one of the options was a 2-day CR. This is not that CR. This is a 1-day CR. I want Members to be aware of that.

Of course Members of the Committee on Rules, as I say, are definitely aware of it and prepared for yet another evening of comrade fellowship and good times in the Committee on Rules, doing valuable things, waiting for some inspiration to come forward to us.

There is very definitely some feeling about trying to wrap this up, but I want to assure Members that the Committee on Rules is working toward that end. We well recognize the longer we stay here, the more opportunity there is for new initiatives to come forward at the last minute and divert us from our main task, which is to resolve the budget crunch.

We are also aware that the longer we are here, the more good ideas people have for spending money at a time when we have already reached agreement on what those levels should be.

So it is our very firm hope that this 24-hour CR will be enough. But if not, I think I am authorized to say by the gentleman from California (Mr. DREIER), chairman of the Committee on Rules, that the Committee on Rules will be prepared to meet, if necessary, again.

Mr. Speaker, I yield back the balance of our 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.

Mr. YOUNG of Florida. Mr. Speaker, pursuant to House Resolution 381, I call up the joint resolution (H.J. Res. 80) making further continuing appropriations for the fiscal year 2000, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 80 is as follows:

H.J. RES. 80

Resolved by the Senate and House Representatives of the United States of America in Congress assembled, That Public Law 106–62 is further amended by striking ''November 17, 1999'' in section 106(c) and inserting in lieu thereof ''November 18, 1999''. Public Law 106–46 is amended by striking ''November 17, 1999'' and inserting in lieu thereof ''November 18, 1999''.

The SPEAKER pro tempore. Pursuant to House Resolution 381, the gentleman from Florida (Mr. YOUNG) and the gentleman from Pennsylvania (Mr. MURTHA) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.J. Res. 80, and that I may include tabular and extraneous material.

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

There was no objection.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, this a 1-day continuing resolution, which I do not think is going to be adequate because the negotiations on wrapping up our appropriations work are still somewhat delayed, although the Speaker of the House and the President did speak with each other late last night, and we are hopeful that we can come to a conclusion.

The appropriations part of this negotiation has been completed for some time. The offsets, the pay-fors, are what are holding up the negotiations. We expect to have that completed today. We expect to file the bill in the House today, and we expect to consider the bill in the House today; and, hopefully, the other body will be able to expedite it as well.

So maybe the 1-day extension may be enough, but probably not. But nevertheless, this is what we have before us today.

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

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

Mr. Speaker, I notice we have flights going overseas all the time, and I know this will have to be flown to the President. I cannot imagine, from what the gentleman said, and what I have heard, that this negotiation is going to finish today.

It is hard to argue with a 1-day extension. We have had a couple other extensions. But I keep worrying that, as we mislead Members to think we are going to be finished, why we just would not pass a little longer CR. We complain about people not being around, and we seem to be able to get along without them, whoever it is that is not available to us. Of course, I know the gentleman from Florida (Mr. YOUNG) does not do that. I know that he understands how the system works and as I do, too.

As a matter of fact, they suggested to me that we should ask for a vote. I am not sure I even know the procedure of how to ask for a vote because it has been so long since I have asked for a vote.

But having said that, I know that we have to get our business done. I am hopeful negotiations will end today. I am not as optimistic as the chairman is. But I know that sometime this week or next week or Thanksgiving or Christmas time we will be done.

As past history shows, sometimes we have delicate negotiations. I hope it is not an across-the-board cut. I worry so much. Because even the four-tenths of 1 percent cut would mean we would cut $500 million out of O&M. With the two units that are C4, I realize there is not a big threat out there to the Army right now, but it worries me that we are doing this kind of work when, as the chairman suggested in the first place, if we had passed an adequate budget resolution, we would have been all through with this thing early in the year. We would not have had to resort to the kind of gimmicks that have been so distasteful to those of us on the Committee on Appropriations.

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

Mr. YOUNG of Florida. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, I want to say to the gentleman from Pennsylvania (Mr. MURTHA) that, if he and I had been able to resolve this issue as we have been able to deal with the defense issues for many years, we would have concluded our business a long time ago.

I would like to say this, that the Committee on Appropriations in the House has done a good job. We basically completed our part of the business in July. Then we had the negotiations with our counterparts in the Senate. I would like to compliment our counterparts in the Senate. Senator STEVENS is a dynamic leader, a tough negotiator, and very knowledgeable. He does a really good job. And of course his partner there, Senator BYRD, is also very determined in what it is that he seeks to do.

But the gentleman from Pennsylvania (Mr. MURTHA) and I have always been able to get things resolved early on. We have not been able to do that on the wrap up appropriations work. But we are close to that conclusion now. I will say again the appropriators have done a good job. The appropriations part of this package is complete. The agreement will have some extraneous

material, some riders, and the offsets that are holding us up. But, we do plan to file that bill today.

I thank the gentleman from Pennsylvania (Mr. MURTHA) for his comments.

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

1045

The SPEAKER pro tempore (Mr. PEASE). All time for debate has expired.

The joint resolution is considered as having been read for amendment.

Pursuant to House Resolution 381, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

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

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

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

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

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 403, nays 8, not voting 23, as follows:

[Roll No. 596]

YEAS—403

Aderholt
Allen
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Bentsen
Bereuter
Berkley
Berman
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Cardin
Carson
Castle
Chabot
Chambliss
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dickey
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Edwards
Ehlers
Ehrlich
Emerson
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jenkins
John
Johnson (CT)
Johnson, E. B.
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lantos
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Martinez
Mascara
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink
Moakley
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Nadler
Napolitano
Neal
Nethercutt
Ney
Northup
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pascrell
Pastor
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spratt
Stabenow
Stark
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tierney
Toomey
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watt (NC)
Watts (OK)
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Weygand
Whitfield
Wicker
Wilson
Wolf
Woolsey
Wu
Wynn
Young (FL)

NAYS—8

Chenoweth-Hage
Deal
Forbes
Paul
Salmon
Shadegg
Shaw
Watkins

NOT VOTING—23

Abercrombie
Ackerman
Clay
Conyers
Diaz-Balart
Dixon
Dunn
Engel
Jefferson
Johnson, Sam
Lampson
Largent
McKinney
Meehan
Norwood
Pickett
Rothman
Scarborough
Spence
Towns
Waxman
Wise
Young (AK)

1108

Mr. LUTHER changed his voted from ''nay'' to ''yea.''

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. SHAW. Mr. Speaker, on rollcall vote number 596, that was the temporary continuing resolution, my vote was recorded incorrectly. I was present on the floor and I did vote ''yes,'' and as a matter of fact I checked the board to double-check to see that I was recorded and saw the green light next to my name. It has been brought to my attention that my vote was incorrectly recorded as voting ''no.''

Mr. ABERCROMBIE. Mr. Speaker, earlier today when the House voted on House Joint Resolution 80, to extend the continuing resolution for 24 hours, I was unavoidably detained. Had I been present, I would have voted ''yes''.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Any record votes on postponed questions will be taken later today.

HOLDING COURT IN NATCHEZ, MISSISSIPPI

Mr. HYDE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1418) to provide for the holding of court at Natchez, Mississippi, in the same manner as court is held at Vicksburg, Mississippi, and for other purposes, as amended.

The Clerk read as follows:

S. 1418

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

SECTION 1. HOLDING OF COURT AT NATCHEZ, MISSISSIPPI.

Section 104(b)(3) of title 28, United States Code, is amended in the second sentence by striking all beginning with the colon through ''United States''.

SEC. 2. HOLDING OF COURT AT WHEATON, ILLINOIS.

Section 93(a)(1) of title 28, United States Code, is amended by adding after Chicago ''and Wheaton''.

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

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

GENERAL LEAVE

Mr. HYDE. Mr. Speaker, I ask unanimous consent that all Members may

have 5 legislative days within which to revise and extend their remarks and to include extraneous material on S. 1418.

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

There was no objection.

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

Mr. Speaker, I rise in support of S. 1418, as amended. It contains two small but important provisions that will improve the efficiency of the administration of justice in our Federal court system.

Section 1 was approved in the House by unanimous consent. This section proposes to allow for the holding of court in Natchez, Mississippi, in the same manner as court is held in Vicksburg. It would eliminate a provision in current law that limits the authority of the Federal courts to lease space in order to convene proceedings in Natchez, Mississippi.

While only a small number of Federal court cases are now tried at Natchez County Court facilities, it is important that the Federal Government be able to continue using the facility.

I have a manager's amendment that adds Section 2 to the bill. Section 2 designates Wheaton, Illinois, as a place of holding court for the Eastern Division of the Northern District of Illinois.

Wheaton is the seat of DuPage County, Illinois. Because of the large population growth in DuPage County and the area surrounding Chicago, it would be beneficial to designate Wheaton as an additional place of holding court.

Mr. Speaker, these are simple yet significant improvements to the Federal judicial system. I urge my colleagues to support S. 1418.

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

The SPEAKER pro tempore. Without objection, the gentleman from Mississippi (Mr. SHOWS) will claim the time of the gentleman from New York (Mr. WEINER).

There was no objection.

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

Mr. Speaker, today I urge the House to pass S. 1418, which would provide for the holding of Federal court in the City of Natchez, Mississippi.

1115

Federal judges need the flexibility to hold court in different places within their judicial districts. However, the hands of Federal judges in the southern district of Mississippi are tied because of arcane language in Federal law. Language was written into law sometime ago that said the court could meet in Natchez ''provided, that court shall be held at Natchez if suitable quarters and accommodations are furnished at no cost to the United States.'' To my knowledge no other city presents this kind of obstacle to the Federal courts. S. 1418 strikes this unfair and restrictive language and gives the court flexibility to meet in Natchez. And who would not want to meet in Natchez, a beautiful city in Mississippi? I appreciate the efforts of Senator THAD COCHRAN and the gentleman from Illinois (Mr. HYDE) to expedite the passage of this important legislation. I urge my colleagues to pass this fair and noncontroversial bill.

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

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

The SPEAKER pro tempore (Mr. PEASE). The question is on the motion offered by the gentleman from Illinois (Mr. HYDE) that the House suspend the rules and pass the Senate bill, S. 1418, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

RAILROAD POLICE TRAINING AT FBI NATIONAL ACADEMY

Mr. HUTCHINSON. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1235) to amend part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to allow railroad police officers to attend the Federal Bureau of Investigation National Academy for law enforcement training.

The Clerk read as follows:

S. 1235

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

SECTION 1. INCLUSION OF RAILROAD POLICE OFFICERS IN FBI LAW ENFORCEMENT TRAINING.

(a) IN GENERAL.—Section 701(a) of part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771(a)) is amended—

(1) in paragraph (1)—

(A) by striking ''State or unit of local government'' and inserting ''State, unit of local government, or rail carrier''; and

(B) by inserting '', including railroad police officers'' before the semicolon; and

(2) in paragraph (3)—

(A) by striking ''State or unit of local government'' and inserting ''State, unit of local government, or rail carrier'';

(B) by inserting ''railroad police officer,'' after ''deputies,'';

(C) by striking ''State or such unit'' and inserting ''State, unit of local government, or rail carrier''; and

(D) by striking ''State or unit.'' and inserting ''State, unit of local government, or rail carrier.''.

(b) RAIL CARRIER COSTS.—Section 701 of part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771) is amended by adding at the end the following:

''(d) RAIL CARRIER COSTS.—No Federal funds may be used for any travel, transportation, or subsistence expenses incurred in connection with the participation of a railroad police officer in a training program conducted under subsection (a).''.

(c) DEFINITIONS.—Section 701 of part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3771) is amended by adding at the end the following:

''(e) DEFINITIONS.—In this section—

''(1) the terms 'rail carrier' and 'railroad' have the meanings given such terms in section 20102 of title 49, United States Code; and

''(2) the term 'railroad police officer' means a peace officer who is commissioned in his or her State of legal residence or State of primary employment and employed by a rail carrier to enforce State laws for the protection of railroad property, personnel, passengers, or cargo.''.

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

The Chair recognizes the gentleman from Arkansas (Mr. HUTCHINSON).

GENERAL LEAVE

Mr. HUTCHINSON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the Senate bill under consideration.

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

There was no objection.

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

Mr. Speaker, I am pleased to rise in support of this important legislation which was unanimously approved by the other body last week. The bill amends 42 USC 3771(a) to authorize railroad police to attend the FBI's training academy in Quantico, Virginia. Current law permits State and local law enforcement agents to take advantage of the unique and high quality training available at the FBI academy, and this legislation merely adds railroad police officers to the list of approved personnel. Why do we need this?

Railroad police increasingly are being called upon to assist Federal, State and local law enforcement agencies. Investigation and interdiction of illegal drugs crossing the southwest border by rail car, apprehension of illegal aliens using the railways to gain entry into the United States and investigating alleged acts of railroad sabotage are just some of the law enforcement functions being performed by the railroad police.

As just an aside, Mr. Speaker, I would like to note that according to recent congressional testimony, in 1998 alone, over 33,000 illegal aliens were found hiding on board Union Pacific railroad cars. As sworn officers charged with enforcing State and local laws in any jurisdiction in which the rail carrier owns property, railroad police officers are actively involved in numerous investigations and cases with the FBI and other law enforcement agencies.

For example, Amtrak has a police officer assigned to the FBI's New York City Joint Task Force on Terrorism and another assigned to the D.C./Baltimore High Intensity Drug Trafficking Area to investigate illegal drug and weapons trafficking. Union Pacific railroad police receive 4,000 trespassing

calls a month, arrest almost 3,000 undocumented aliens per month and arrest an average of 773 people a month for burglaries, thefts, drug charges, and vandalism.

This past summer, the FBI, local police and railroad police launched a 6-week manhunt in and around the Nation's rail system to apprehend a suspected serial killer. The suspect, a rail-riding drifter, has been linked to nine slayings and is responsible for spreading terror from Texas to Illinois. The railroad police were asked to play an important role in this search and would have been much more prepared to face the situation had they received equivalent training.

Improving the law enforcement skills of railroad police will improve this interagency cooperation, ultimately making the rail system safer for America's travelers. Some Members have asked about the cost of this. I want to assure this body that all costs associated with the training of railroad police, their travel, tuition, and room and board will be covered by their employer. The rail lines acknowledge this responsibility and are committed to financing the costs of the training. This bipartisan legislation introduced by Senators LEAHY and HATCH is supported by the FBI, the International Association of Chiefs of Police, and the Association of American Railroads, a trade association which represents North America's major freight railroads, including Union Pacific, Norfolk Southern, Kansas City Southern, Illinois Central, CSX, Conrail, and Amtrak. Mr. Speaker, I am unaware of any opposition to this legislation and urge my colleagues to support it.

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

Mr. WEINER. Mr. Speaker, I yield myself such time as I may consume. The FBI is currently authorized to offer the superior training available at the FBI's National Academy only to law enforcement personnel employed by State or local units of government. However, police officers employed by railroads are not allowed to attend this Academy despite the fact that they work closely in numerous cases with Federal law enforcement agencies as well as State and local law enforcement.

A recent example of this cooperative effort is the Texas railway killer case. Providing railroad police with the opportunity to obtain the training offered at Quantico would improve interagency cooperation and prepare them to deal with the ever-increasing sophistication of criminals who conduct their illegal acts either using the railroad or directed at the railroad or its passengers.

Railroad police officers, unlike any other private police department, are commissioned under State law to enforce the laws of that State and any other State in which the railroad owns property. As a result of this broad law enforcement authority, railroad police officers are actively involved in numerous investigations and cases with the FBI and other law enforcement agencies.

For example, Amtrak has a police officer assigned to the New York Joint Task Force on Terrorism which is made up of 140 members from such disparate agencies as the FBI, the U.S. Marshals Service, the U.S. Secret Service and the ATF. This task force investigates domestic and foreign terrorist groups in response to actual terrorist incidents in my home area, Metropolitan New York.

With thousands of passengers traveling on our railways each year, making sure that railroad police officers have available to them the highest level of training is in the national interest. The officers that protect railroad passengers deserve the same opportunity to receive training at Quantico that their counterparts employed by State and local governments enjoy. Railroad police officers who attend the FBI National Academy in Quantico for training would be required to pay their own room, board, and transportation. This legislation, as my colleague pointed out, is supported by the FBI, the International Association of Chiefs of Police, the Union Pacific Company, and the National Railroad Passenger Corporation. I thank Senator LEAHY for his work on this issue. I urge its passage.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. HUTCHINSON) that the House suspend the rules and pass the Senate bill, S. 1235.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

PROVIDING SUPPORT FOR CERTAIN INSTITUTES AND SCHOOLS

Mr. HILLEARY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 440) to provide support for certain institutes and schools.

The Clerk read as follows:

S. 440

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

TITLE I—HOWARD BAKER SCHOOL OF GOVERNMENT

SEC. 101. DEFINITIONS.

In this title:

(1) BOARD.—The term ''Board'' means the Board of Advisors established under section 104.

(2) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the University of Tennessee in Knoxville, Tennessee, for the purpose of generating income for the support of the School.

(3) SCHOOL.—The term ''School'' means the Howard Baker School of Government established under this title.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(5) UNIVERSITY.—The term ''University'' means the University of Tennessee in Knoxville, Tennessee.

SEC. 102. HOWARD BAKER SCHOOL OF GOVERNMENT.

From the funds authorized to be appropriated under section 106, the Secretary is authorized to award a grant to the University for the establishment of an endowment fund to support the Howard Baker School of Government at the University of Tennessee in Knoxville, Tennessee.

SEC. 103. DUTIES.

In order to receive a grant under this title, the University shall establish the School. The School shall have the following duties:

(1) To establish a professorship to improve teaching and research related to, enhance the curriculum of, and further the knowledge and understanding of, the study of democratic institutions, including aspects of regional planning, public administration, and public policy.

(2) To establish a lecture series to increase the knowledge and awareness of the major public issues of the day in order to enhance informed citizen participation in public affairs.

(3) To establish a fellowship program for students of government, planning, public administration, or public policy who have demonstrated a commitment and an interest in pursuing a career in public affairs.

(4) To provide appropriate library materials and appropriate research and instructional equipment for use in carrying out academic and public service programs, and to enhance the existing United States Presidential and public official manuscript collections.

(5) To support the professional development of elected officials at all levels of government.

SEC. 104. ADMINISTRATION.

(a) BOARD OF ADVISORS.—

(1) IN GENERAL.—The School shall operate with the advice and guidance of a Board of Advisors consisting of 13 individuals appointed by the Vice Chancellor for Academic Affairs of the University.

(2) APPOINTMENTS.—Of the individuals appointed under paragraph (1)—

(A) 5 shall represent the University;

(B) 2 shall represent Howard Baker, his family, or a designee thereof;

(C) 5 shall be representative of business or government; and

(D) 1 shall be the Governor of Tennessee, or the Governor's designee.

(3) EX OFFICIO MEMBERS.—The Vice Chancellor for Academic Affairs and the Dean of the College of Arts and Sciences at the University shall serve as an ex officio member of the Board.

(b) CHAIRPERSON.—

(1) IN GENERAL.—The Chancellor, with the concurrence of the Vice Chancellor for Academic Affairs, of the University shall designate 1 of the individuals first appointed to the Board under subsection (a) as the Chairperson of the Board. The individual so designated shall serve as Chairperson for 1 year.

(2) REQUIREMENTS.—Upon the expiration of the term of the Chairperson of the individual designated as Chairperson under paragraph (1) or the term of the Chairperson elected under this paragraph, the members of the Board shall elect a Chairperson of the Board from among the members of the Board.

SEC. 105. ENDOWMENT FUND.

(a) MANAGEMENT.—The endowment fund shall be managed in accordance with the standard endowment policies established by the University of Tennessee System.

(b) USE OF INTEREST AND INVESTMENT INCOME.—Interest and other investment income earned (on or after the date of enactment of this subsection) from the endowment fund may be used to carry out the duties of the School under section 103.

(c) DISTRIBUTION OF INTEREST AND INVESTMENT INCOME.—Funds realized from interest and other investment income earned (on or after the date of enactment of this subsection) shall be available for expenditure by the University for purposes consistent with section 103, as recommended by the Board. The Board shall encourage programs to establish partnerships, to leverage private funds, and to match expenditures from the endowment fund.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $10,000,000. Funds appropriated under this section shall remain available until expended.

TITLE II—JOHN GLENN INSTITUTE FOR PUBLIC SERVICE AND PUBLIC POLICY

SEC. 201. DEFINITIONS.

In this title:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the University for the purpose of generating income for the support of the Institute.

(2) ENDOWMENT FUND CORPUS.—The term ''endowment fund corpus'' means an amount equal to the grant or grants awarded under this title plus an amount equal to the matching funds required under section 202(d).

(3) ENDOWMENT FUND INCOME.—The term ''endowment fund income'' means an amount equal to the total value of the endowment fund minus the endowment fund corpus.

(4) INSTITUTE.—The term ''Institute'' means the John Glenn Institute for Public Service and Public Policy described in section 202.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(6) UNIVERSITY.—The term ''University'' means the Ohio State University at Columbus, Ohio.

SEC. 202. PROGRAM AUTHORIZED.

(a) GRANTS.—From the funds appropriated under section 206, the Secretary is authorized to award a grant to the Ohio State University for the establishment of an endowment fund to support the John Glenn Institute for Public Service and Public Policy. The Secretary may enter into agreements with the University and include in any agreement made pursuant to this title such provisions as are determined necessary by the Secretary to carry out this title.

(b) PURPOSES.—The Institute shall have the following purposes:

(1) To sponsor classes, internships, community service activities, and research projects to stimulate student participation in public service, in order to foster America's next generation of leaders.

(2) To conduct scholarly research in conjunction with public officials on significant issues facing society and to share the results of such research with decisionmakers and legislators as the decisionmakers and legislators address such issues.

(3) To offer opportunities to attend seminars on such topics as budgeting and finance, ethics, personnel management, policy evaluations, and regulatory issues that are designed to assist public officials in learning more about the political process and to expand the organizational skills and policymaking abilities of such officials.

(4) To educate the general public by sponsoring national conferences, seminars, publications, and forums on important public issues.

(5) To provide access to Senator John Glenn's extensive collection of papers, policy decisions, and memorabilia, enabling scholars at all levels to study the Senator's work.

(c) DEPOSIT INTO ENDOWMENT FUND.—The University shall deposit the proceeds of any grant received under this section into the endowment fund.

(d) MATCHING FUNDS REQUIREMENT.—The University may receive a grant under this section only if the University has deposited in the endowment fund established under this title an amount equal to one-third of such grant and has provided adequate assurances to the Secretary that the University will administer the endowment fund in accordance with the requirements of this title. The source of the funds for the University match shall be derived from State, private foundation, corporate, or individual gifts or bequests, but may not include Federal funds or funds derived from any other federally supported fund.

(e) DURATION; CORPUS RULE.—The period of any grant awarded under this section shall not exceed 20 years, and during such period the University shall not withdraw or expend any of the endowment fund corpus. Upon expiration of the grant period, the University may use the endowment fund corpus, plus any endowment fund income for any educational purpose of the University.

SEC. 203. INVESTMENTS.

(a) IN GENERAL.—The University shall invest the endowment fund corpus and endowment fund income in accordance with the University's investment policy approved by the Ohio State University Board of Trustees.

(b) JUDGMENT AND CARE.—The University, in investing the endowment fund corpus and endowment fund income, shall exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of the person's own business affairs.

SEC. 204. WITHDRAWALS AND EXPENDITURES.

(a) IN GENERAL.—The University may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of the Institute, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research. No endowment fund income or endowment fund corpus may be used for any type of support of the executive officers of the University or for any commercial enterprise or endeavor. Except as provided in subsection (b), the University shall not, in the aggregate, withdraw or expend more than 50 percent of the total aggregate endowment fund income earned prior to the time of withdrawal or expenditure.

(b) SPECIAL RULE.—The Secretary is authorized to permit the University to withdraw or expend more than 50 percent of the total aggregate endowment fund income whenever the University demonstrates such withdrawal or expenditure is necessary because of—

(1) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(2) a life-threatening situation occasioned by a natural disaster or arson; or

(3) another unusual occurrence or exigent circumstance.

(c) REPAYMENT.—

(1) INCOME.—If the University withdraws or expends more than the endowment fund income authorized by this section, the University shall repay the Secretary an amount equal to one-third of the amount improperly expended (representing the Federal share thereof).

(2) CORPUS.—Except as provided in section 202(e)—

(A) the University shall not withdraw or expend any endowment fund corpus; and

(B) if the University withdraws or expends any endowment fund corpus, the University shall repay the Secretary an amount equal to one-third of the amount withdrawn or expended (representing the Federal share thereof) plus any endowment fund income earned thereon.

SEC. 205. ENFORCEMENT.

(a) IN GENERAL.—After notice and an opportunity for a hearing, the Secretary is authorized to terminate a grant and recover any grant funds awarded under this section if the University—

(1) withdraws or expends any endowment fund corpus, or any endowment fund income in excess of the amount authorized by section 204, except as provided in section 202(e);

(2) fails to invest the endowment fund corpus or endowment fund income in accordance with the investment requirements described in section 203; or

(3) fails to account properly to the Secretary, or the General Accounting Office if properly designated by the Secretary to conduct an audit of funds made available under this title, pursuant to such rules and regulations as may be prescribed by the Comptroller General of the United States, concerning investments and expenditures of the endowment fund corpus or endowment fund income.

(b) TERMINATION.—If the Secretary terminates a grant under subsection (a), the University shall return to the Treasury of the United States an amount equal to the sum of the original grant or grants under this title, plus any endowment fund income earned thereon. The Secretary may direct the University to take such other appropriate measures to remedy any violation of this title and to protect the financial interest of the United States.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $10,000,000. Funds appropriated under this section shall remain available until expended.

TITLE III—OREGON INSTITUTE OF PUBLIC SERVICE AND CONSTITUTIONAL STUDIES

SEC. 301. DEFINITIONS.

In this title:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by Portland State University for the purpose of generating income for the support of the Institute.

(2) INSTITUTE.—The term ''Institute'' means the Oregon Institute of Public Service and Constitutional Studies established under this title.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 302. OREGON INSTITUTE OF PUBLIC SERVICE AND CONSTITUTIONAL STUDIES.

From the funds appropriated under section 306, the Secretary is authorized to award a grant to Portland State University at Portland, Oregon, for the establishment of an endowment fund to support the Oregon Institute of Public Service and Constitutional Studies at the Mark O. Hatfield School of Government at Portland State University.

SEC. 303. DUTIES.

In order to receive a grant under this title the Portland State University shall establish the Institute. The Institute shall have the following duties:

(1) To generate resources, improve teaching, enhance curriculum development, and further the knowledge and understanding of students of all ages about public service, the United States Government, and the Constitution of the United States of America.

(2) To increase the awareness of the importance of public service, to foster among the

youth of the United States greater recognition of the role of public service in the development of the United States, and to promote public service as a career choice.

(3) To establish a Mark O. Hatfield Fellows program for students of government, public policy, public health, education, or law who have demonstrated a commitment to public service through volunteer activities, research projects, or employment.

(4) To create library and research facilities for the collection and compilation of research materials for use in carrying out programs of the Institute.

(5) To support the professional development of elected officials at all levels of government.

SEC. 304. ADMINISTRATION.

(a) LEADERSHIP COUNCIL.—

(1) IN GENERAL.—In order to receive a grant under this title Portland State University shall ensure that the Institute operates under the direction of a Leadership Council (in this title referred to as the ''Leadership Council'') that—

''(A) consists of 15 individuals appointed by the President of Portland State University; and

''(B) is established in accordance with this section.

(2) APPOINTMENTS.—Of the individuals appointed under paragraph (1)(A)—

(A) Portland State University, Willamette University, the Constitution Project, George Fox University, Warner Pacific University, and Oregon Health Sciences University shall each have a representative;

(B) at least 1 shall represent Mark O. Hatfield, his family, or a designee thereof;

(C) at least 1 shall have expertise in elementary and secondary school social sciences or governmental studies;

(D) at least 2 shall be representative of business or government and reside outside of Oregon;

(E) at least 1 shall be an elected official; and

(F) at least 3 shall be leaders in the private sector.

(3) EX-OFFICIO MEMBER.—The Director of the Mark O. Hatfield School of Government at Portland State University shall serve as an ex-officio member of the Leadership Council.

(b) CHAIRPERSON.—

(1) IN GENERAL.—The President of Portland State University shall designate 1 of the individuals first appointed to the Leadership Council under subsection (a) as the Chairperson of the Leadership Council. The individual so designated shall serve as Chairperson for 1 year.

(2) REQUIREMENT.—Upon the expiration of the term of the Chairperson of the individual designated as Chairperson under paragraph (1), or the term of the Chairperson elected under this paragraph, the members of the Leadership Council shall elect a Chairperson of the Leadership Council from among the members of the Leadership Council.

SEC. 305. ENDOWMENT FUND.

(a) MANAGEMENT.—The endowment fund shall be managed in accordance with the standard endowment policies established by the Oregon University System.

(b) USE OF INTEREST AND INVESTMENT INCOME.—Interest and other investment income earned (on or after the date of enactment of this subsection) from the endowment fund may be used to carry out the duties of the Institute under section 303.

(c) DISTRIBUTION OF INTEREST AND INVESTMENT INCOME.—Funds realized from interest and other investment income earned (on or after the date of enactment of this subsection) shall be spent by Portland State University in collaboration with Willamette University, George Fox University, the Constitution Project, Warner Pacific University, Oregon Health Sciences University, and other appropriate educational institutions or community-based organizations. In expending such funds, the Leadership Council shall encourage programs to establish partnerships, to leverage private funds, and to match expenditures from the endowment fund.

SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $3,000,000.

TITLE IV—PAUL SIMON PUBLIC POLICY INSTITUTE

SEC. 401. DEFINITIONS.

In this title:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the University for the purpose of generating income for the support of the Institute.

(2) ENDOWMENT FUND CORPUS.—The term ''endowment fund corpus'' means an amount equal to the grant or grants awarded under this title plus an amount equal to the matching funds required under section 402(d).

(3) ENDOWMENT FUND INCOME.—The term ''endowment fund income'' means an amount equal to the total value of the endowment fund minus the endowment fund corpus.

(4) INSTITUTE.—The term ''Institute'' means the Paul Simon Public Policy Institute described in section 402.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(6) UNIVERSITY.—The term ''University'' means Southern Illinois University at Carbondale, Illinois.

SEC. 402. PROGRAM AUTHORIZED.

(a) GRANTS.—From the funds appropriated under section 406, the Secretary is authorized to award a grant to Southern Illinois University for the establishment of an endowment fund to support the Paul Simon Public Policy Institute. The Secretary may enter into agreements with the University and include in any agreement made pursuant to this title such provisions as are determined necessary by the Secretary to carry out this title.

(b) DUTIES.—In order to receive a grant under this title, the University shall establish the Institute. The Institute, in addition to recognizing more than 40 years of public service to Illinois, to the Nation, and to the world, shall engage in research, analysis, debate, and policy recommendations affecting world hunger, mass media, foreign policy, education, and employment.

(c) DEPOSIT INTO ENDOWMENT FUND.—The University shall deposit the proceeds of any grant received under this section into the endowment fund.

(d) MATCHING FUNDS REQUIREMENT.—The University may receive a grant under this section only if the University has deposited in the endowment fund established under this title an amount equal to one-third of such grant and has provided adequate assurances to the Secretary that the University will administer the endowment fund in accordance with the requirements of this title. The source of the funds for the University match shall be derived from State, private foundation, corporate, or individual gifts or bequests, but may not include Federal funds or funds derived from any other federally supported fund.

(e) DURATION; CORPUS RULE.—The period of any grant awarded under this section shall not exceed 20 years, and during such period the University shall not withdraw or expend any of the endowment fund corpus. Upon expiration of the grant period, the University may use the endowment fund corpus, plus any endowment fund income for any educational purpose of the University.

SEC. 403. INVESTMENTS.

(a) IN GENERAL.—The University shall invest the endowment fund corpus and endowment fund income in those low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State of Illinois, such as federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, or obligations of the United States.

(b) JUDGMENT AND CARE.—The University, in investing the endowment fund corpus and endowment fund income, shall exercise the judgment and care, under circumstances then prevailing, which a person of prudence, discretion, and intelligence would exercise in the management of the person's own business affairs.

SEC. 404. WITHDRAWALS AND EXPENDITURES.

(a) IN GENERAL.—The University may withdraw and expend the endowment fund income to defray any expenses necessary to the operation of the Institute, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research. No endowment fund income or endowment fund corpus may be used for any type of support of the executive officers of the University or for any commercial enterprise or endeavor. Except as provided in subsection (b), the University shall not, in the aggregate, withdraw or expend more than 50 percent of the total aggregate endowment fund income earned prior to the time of withdrawal or expenditure.

(b) SPECIAL RULE.—The Secretary is authorized to permit the University to withdraw or expend more than 50 percent of the total aggregate endowment fund income whenever the University demonstrates such withdrawal or expenditure is necessary because of—

(1) a financial emergency, such as a pending insolvency or temporary liquidity problem;

(2) a life-threatening situation occasioned by a natural disaster or arson; or

(3) another unusual occurrence or exigent circumstance.

(c) REPAYMENT.—

(1) INCOME.—If the University withdraws or expends more than the endowment fund income authorized by this section, the University shall repay the Secretary an amount equal to one-third of the amount improperly expended (representing the Federal share thereof).

(2) CORPUS.—Except as provided in section 402(e)—

(A) the University shall not withdraw or expend any endowment fund corpus; and

(B) if the University withdraws or expends any endowment fund corpus, the University shall repay the Secretary an amount equal to one-third of the amount withdrawn or expended (representing the Federal share thereof) plus any endowment fund income earned thereon.

SEC. 405. ENFORCEMENT.

(a) IN GENERAL.—After notice and an opportunity for a hearing, the Secretary is authorized to terminate a grant and recover any grant funds awarded under this section if the University—

(1) withdraws or expends any endowment fund corpus, or any endowment fund income in excess of the amount authorized by section 404, except as provided in section 402(e);

(2) fails to invest the endowment fund corpus or endowment fund income in accordance with the investment requirements described in section 403; or

(3) fails to account properly to the Secretary, or the General Accounting Office if

properly designated by the Secretary to conduct an audit of funds made available under this title, pursuant to such rules and regulations as may be proscribed by the Comptroller General of the United States, concerning investments and expenditures of the endowment fund corpus or endowment fund income.

(b) TERMINATION.—If the Secretary terminates a grant under subsection (a), the University shall return to the Treasury of the United States an amount equal to the sum of the original grant or grants under this title, plus any endowment fund income earned thereon. The Secretary may direct the University to take such other appropriate measures to remedy any violation of this title and to protect the financial interest of the United States.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title $3,000,000. Funds appropriated under this section shall remain available until expended.

TITLE V—ROBERT T. STAFFORD PUBLIC POLICY INSTITUTE

SEC. 501. DEFINITIONS.

In this title:

(1) ENDOWMENT FUND.—The term ''endowment fund'' means a fund established by the Robert T. Stafford Public Policy Institute for the purpose of generating income for the support of authorized activities.

(2) ENDOWMENT FUND CORPUS.—The term ''endowment fund corpus'' means an amount equal to the grant or grants awarded under this title.

(3) ENDOWMENT FUND INCOME.—The term ''endowment fund income'' means an amount equal to the total value of the endowment fund minus the endowment fund corpus.

(4) INSTITUTE.—The term ''institute'' means the Robert T. Stafford Public Policy Institute.

(5) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

SEC. 502. PROGRAM AUTHORIZED.

(a) GRANTS.—From the funds appropriated under section 505, the Secretary is authorized to award a grant in an amount of $5,000,000 to the Robert T. Stafford Public Policy Institute.

(b) APPLICATION.—No grant payment may be made under this section except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

SEC. 503. AUTHORIZED ACTIVITIES.

Funds appropriated under this title may be used—

(1) to further the knowledge and understanding of students of all ages about education, the environment, and public service;

(2) to increase the awareness of the importance of public service, to foster among the youth of the United States greater recognition of the role of public service in the development of the United States, and to promote public service as a career choice;

(3) to provide or support scholarships;

(4) to conduct educational, archival, or preservation activities;

(5) to construct or renovate library and research facilities for the collection and compilation of research materials for use in carrying out programs of the Institute;

(6) to establish or increase an endowment fund for use in carrying out the programs of the Institute.

SEC. 504. ENDOWMENT FUND.

(a) MANAGEMENT.—An endowment fund created with funds authorized under this title shall be managed in accordance with the standard endowment policies established by the Institute.

(b) USE OF ENDOWMENT FUND INCOME.—Endowment fund income earned (on or after the date of enactment of this title) may be used to support the activities authorized under section 503.

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title $5,000,000. Funds appropriated under this section shall remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. HILLEARY) and the gentleman from California (Mr. MARTINEZ) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. HILLEARY).

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

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

Mr. HILLEARY. Mr. Speaker, recently the Senate passed S. 440 which authorizes funding for the building of several schools of government at higher education institutions around the country. The schools of government include the Howard Baker School of Government at the University of Tennessee in Knoxville, the John Glenn Institute for Public Service at Ohio State University, the Mark Hatfield School of Government at Portland State University, the Paul Simon Public Policy Institute at Southern Illinois University, and the Robert T. Stafford Institute in Vermont. These schools of government would comprise the existing political science research programs at these universities. In each institution, the goal would be to improve the teaching, research and understanding of democratic institutions.

Not solely a Federal project, additional funds will be provided for these institutions by State and private sources to supplement the Federal contribution. In addition, this legislation gives us a great opportunity to praise the work of former Senator Howard Baker from Tennessee. Senator Baker was the first Republican popularly elected to the United States Senate in Tennessee's history. He served in the Senate from 1967 to 1985. In addition, he served as the minority leader from 1977 to 1981 and majority leader from 1981 until his retirement.

He then later served as President Reagan's chief of staff. Senator Baker still is quite active as a valued adviser and government expert. The creation of the Howard Baker School of Government would be a fitting tribute to his stellar career in public service. I urge the House to pass this legislation to establish these valuable schools of government and in doing so honor Senator Baker and his colleagues for their service to our country.

Finally I would like to thank the gentleman from Tennessee (Mr. DUNCAN). I am an original cosponsor of his bill, H.R. 788, which is almost identical to this legislation and at present has 23 cosponsors. Without his leadership on this issue, we would not even have this legislation before us today. I thank the gentleman from Tennessee (Mr. DUNCAN) for his hard work on this issue.

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

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

I rise in support of S. 440, a bill that authorizes financial assistance to a number of public policy institutes for the purpose of enhancing teaching and research in government and public service. The academic institutions included in the bill are named, and have been named by the gentleman from Tennessee, after a group of distinguished colleagues including the Howard Baker School of Government which is in the gentleman's district, the John Glenn Institute for Public Service and Public Policy, the oregon institute of public service and Constitutional Studies at the Mark O. Hatfield School of Government, the Paul Simon Public Policy Institute, and the Robert T. Stafford Public Policy Institute. I think the most valuable contribution of these institutions is their mission to sponsor classes, research, and internships in community service activities that stimulate student participation in public service which is crucial to fostering America's next generation of leaders. I urge support for the bill.

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

Mr. HILLEARY. Mr. Speaker, I yield 5 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Speaker, I thank the gentleman from Tennessee for yielding me this time and thank him in his work in support of this legislation. I rise in strong support of this very modest, bipartisan legislation.

I am pleased to be the original sponsor of the House companion to this Senate bill. The other body passed this legislation by unanimous consent last week. Both the House and Senate bills have a number of cosponsors from both sides of the aisle. I want to thank the gentleman from Pennsylvania (Mr. GOODLING) for allowing this bill to be brought to the floor today.

S. 440 would establish five new schools of government across the country. These schools would be dedicated to the study of public policy and government. Each of these schools would be named after great Americans, Members from both sides of the aisle, who have served the public in the United States Senate.

While I admire and respect all of these men, I would like to primarily speak about one of them, Senator Howard Baker. I understand that we may have other Members who will want to discuss the others honored by this legislation. Specifically, this bill would create the Howard Baker School of Government at the University of Tennessee in Knoxville. I believe this legislation is a fitting tribute to Senator Baker's extraordinary career and exemplary public service which continues to this day. Senator Baker was a member of the United States Senate for 18 years, where he served as minority

leader as well as majority leader. He also served as President Reagan's chief of staff. I have said before, Mr. Speaker, that the White House chief of staff is the person who has to say no for the President. As a result, some people have left this job with very unpopular reputations. However, Senator Baker left this job as chief of staff more popular than when he began.

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I believe this is a real testament to the type of person he is. In fact, I have said before that I believe Senator Baker is the greatest living Tennessean. He is, without question, one of the greatest statesmen in the history of the State of Tennessee.

In addition, he has been recognized in a very special way here in Washington. The rooms of the Senate majority leader in the U.S. Capitol building are named the Howard H. Baker, Jr., rooms. These are the rooms of the former Library of Congress. This is a very fitting tribute to one of our Nation's greatest public servants.

Mr. Speaker, I am honored to have earlier introduced legislation, which passed, to name a Federal courthouse in Knoxville, Tennessee after Senator Baker. This courthouse serves as a reminder to Tennesseans of the great work done for them by Senator Baker.

Senator Baker has a wonderful supportive wife, former Senator Nancy Kassebaum. I think they make a great team, and they both continue to work to ensure that this country is a better place in which to live.

In spite of all of the success Senator Baker achieved in the White House, the Senate and now his private law practice, he has not lost his humility or forgotten where he came from. He now lives in Tennessee where he can be close to the people he represented so well for so many years. He continues to work to help others. Despite his national recognition, he speaks even at very small events and helps many community organizations.

As I stated earlier, I have great admiration for all of the gentlemen honored in this bill. However, I think this is an especially fitting tribute to the greatest living Tennessean, Senator Howard H. Baker.

I urge my colleagues to support this legislation which will honor four great Americans and at the same time provide additional learning opportunities for our young people. Again, I would like to thank the gentleman from Pennsylvania (Mr. GOODLING) and the gentleman from Tennessee (Mr. HILLEARY), Congressman Hilleary, for their work on this legislation and bringing it to the floor for consideration.

Mr. HILLEARY. Mr. Speaker, 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. Speaker, it is absolutely a thrill for me to be here as a Member of the House to recognize one of these great Americans. I think it is entirely appropriate for our country to name these schools of government after great American leaders in government.

One of these, clearly, is Howard H. Baker. He was a great United States Senator, White House chief of staff. Few people have done more for the University of Tennessee over the course of its history than Senator Baker. In fact, few people have done more for the United States of America in this century than Senator Howard Baker.

Mr. Speaker, when I think of Senator Baker, the first word that comes to mind is civility, and the second word is trust. Members of the United States Senate from both parties truly respected and trusted Howard Baker. He had a reputation and continues to have a reputation that few people in the history of the United States Congress enjoyed.

I think of justice under the law. Even to this very day, the rooms that the Senate majority leader resides in on the Senate side, the offices are named the Howard H. Baker, Jr., rooms in recognition of his reputation. I think of intellect and hard work and the combination of the two. I think of knowledge of the law. Frankly, from the Watergate hearings to the years of Senate majority leader and White House chief of staff, I think of good old, down-home southern charm, laced with humor and respect for others and a reputation that few have ever had.

This is a proper tribute. The University of Tennessee will be better off. Students will learn from that school of government, and the name on that school of government, Howard H. Baker, will actually represent dignity, grace and justice, all three of which his life represents.

The SPEAKER pro tempore (Mr. PEASE). Does the gentleman from California (Mr. MARTINEZ) wish to reclaim his time?

Mr. MARTINEZ. Mr. Speaker, I ask unanimous consent to reclaim the time.

The SPEAKER pro tempore. Without objection, the gentleman from California (Mr. MARTINEZ) is recognized.

Mr. MARTINEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. SANFORD).

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

I have many peers in this case saying a lot of great things about a lot of great men, and I agree with all that they have said. Howard Baker was indeed a great man, John Glenn is a great man, Paul Simon is a great man. But I struggle with this particular bill for a couple of simple reasons, but one primary one.

That is, as Republicans, what we have talked about is Washington not knowing best, and yet at the core of what this does, which is basically a sole-source grant that points to a couple of different institutions across this country and says, they are the most able beneficiaries of government largesse, and that we ought to send the money to them as opposed to a lot of other universities or colleges across this country. I struggle with that theme as a Republican because what we have talked about is the issue of Federalism, the issue of Washington not knowing best, and local communities knowing what makes sense in their neighborhood. That is why we have tried the idea of block grants, and this gets away from the idea of block grants.

So I would first of all agree with what they have been saying about any of these gentlemen, because they are indeed great gentlemen; but do we want to in fact point to sole-source grants as a way of recognizing them.

Two, we do not have a problem in this country with secondary education. We have a problem with grade school and with high school, but on any international standard, we are doing quite well on the issue of secondary education. So this points money to colleges and universities as opposed to high schools where I think our core problem is.

Three, is public policy the best place to spend this money? In other words, these are institutes of public policy, of government. Is that where the highest and best use of educational dollars can go these days, as opposed to the basics of reading and writing and arithmetic wherein we have sustained deficiencies in high schools and grade schools across this country.

Lastly, I would say, look at the different ways that we might spend this money. This money, if we are talking about $31 million here, $31 million could go based on the average teacher salaries, go to pay for 777 teachers across this country. It could go to pay for about 4,000 kids attending a year of college next year, or for that matter, it could go to my favorite subject, which is back to the debt, to pay down this debt that we have stacked up.

So I agree with what these gentlemen from Tennessee and other places have said about a lot of great men that have served in this institution, but I question whether or not this is the way to recognize their talents.

Mr. HILLEARY. Mr. Speaker, I yield 3 minutes to the gentleman from Oregon (Mr. WALDEN).

(Mr. WALDEN of Oregon asked and was given permission to revise and extend his remarks.)

Mr. WALDEN of Oregon. Mr. Speaker, I thank the gentleman for the opportunity to speak to Senate bill 440. In particular I would like to rise in support of title 3 of the act which authorizes the Oregon Institute of Public Service and Constitutional Studies in the Mark O. Hatfield School of Government at PSU.

Under this legislation, the institute will be required to further the knowledge and understanding of students

about public service, the U.S. Government, and the Constitution, and increase the awareness among youth of the importance of public service. I think these are laudable goals and important teachings that are so underrepresented right now in our country. Learning about public service, understanding the Constitution. These are at the heart of our democracy and why this legislation is important.

This legislation also establishes the Mark O. Hatfield Fellows Program at PSU. This course of study and the fellowship in the name of Senator Hatfield is very appropriate, for the Senator has truly defined public service in my great State of Oregon.

We still have a lot to learn from Senator Hatfield. The authorization of the Institute for Public Service and Constitutional Studies and the Mark O. Hatfield Fellowship Program will ensure that future generations of Oregonians will continue the spirit of public service that Senator Hatfield has taught us.

Mr. Speaker, I urge passage of Senate bill 440.

Thank you, Mr. Speaker, for the opportunity to speak today on S. 440. In particular I would like to rise in support of Title 3 of the act which authorizes the Oregon Institute of Public Service and Constitutional Studies in the Mark O. Hatfield School of Government at Portland State University.

Under this legislation, the Institute will be required to further the knowledge and understanding of students about public service, the U.S. Government, and the Constitution, and increase the awareness among youth of the importance of public service. This legislation also establishes the Mark O. Hatfield Fellow's program at Portland State University. This course of study, and the fellowship in the name of Senator Hatfield, is very appropriate for the Senator has truly defined public service in the state of Oregon.

Senator Hatfield began his political career in the Oregon Legislature in 1950 and moved on to become the youngest Secretary of State in Oregon history at the age of 34. Elected Governor of Oregon in 1958, Senator Hatfield became the state's first two-term governor in the 20th Century when he was re-elected in 1962. The Senator's federal career began in 1966 when he was elected to the U.S. Senate. He served as Chairman of the Senate Appropriations Committee and was a member of the Energy and Natural Resources Committee, the Rules Committee, the Joint Committee on the Library, and the Joint Committee on Printing.

Senator Hatfield is now a member of the faculty at the Hatfield School of Government at Portland State University and George Fox University where he is continuing to lead the next generation of Oregonians. This legislation recognizes Senator Hatfield's legacy by supporting public service through the Hatfield School of Government. The Institute for Public Service and Constitutional Studies will provide support to partnerships that promote public service through teaching, research, and student support.

I think Senator Hatfield summed up his theory on public service best when he spoke at the dedication of the Hatfield School of Government in 1997. He said, ''Throughout my career in public service I have stressed the importance of education and my deep personal respect for the teaching profession. I believe that some of my most important life's work has been my time in the classrooms, helping others learn about the great issues and the history of this country. The Hatfield School of Government brings both streams of my career—public service and education—together in a legacy that I hope will inspire many future generations, whose responsibility it will be to continue this great country's advancement into the next century and beyond.''

We still have a lot to learn from Senator Hatfield. The authorization of the Institute for Public Service and Constitutional Studies and the Mark O. Hatfield fellowship program will ensure that the future generations of Oregonians will continue the spirit of public service that Senator Hatfield has taught us.

Mr. Speaker, I urge passage of S. 440.

Mr. HILLEARY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Ms. PRYCE).

Ms. PRYCE of Ohio. Mr. Speaker, I thank the gentleman from Tennessee for yielding me this time.

Mr. Speaker, I rise today to express my support for Senate bill 440, a bill honoring many great Americans, two of my favorite American Senators, Howard Baker, a Republican, and our own Ohio Senator, John Glenn, a Democrat.

The bill would also create, among other things, a new academic program at the Ohio State University and authorize appropriations to establish the John Glenn Institute for Public Service and Public Policy and its endowment fund to provide long-term funding for personnel and operations.

Located at the Ohio State University, the John Glenn Institute will collaborate with the university's extensive public service and public policy resources to sponsor classes, facilitate research on issues facing this country, provide internships for students, and encourage community service activities.

In addition, the institute will sponsor forums to improve public awareness and foster discussion and debate on critical issues of national and international significance.

The institute also will offer training seminars to elected and appointed public officials to enhance their governing skills. Lastly, the institute will become the rightful, permanent, and proud home to Senator Glenn's papers, speeches, and historic memorabilia.

As one of our Nation's largest public institutions, Ohio State University has a long and proud tradition of providing the highest quality education to students from all over Ohio and around the world. I believe that this legislation will enable Ohio State to integrate public service into their curriculum, thus formulating creative educational initiatives that will combine hands-on experience with research and teaching activities. This experience will prepare our Nation's future leaders for service in government and other public affairs organizations that will ultimately lead to thoughtful solutions to important public policy problems facing our society in the 21st century.

The Ohio State University is committed to enhancing public service and public policy at all levels of government. I hope my colleagues will join me in honoring this great American by supporting this legislation.

Mr. HILLEARY. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. BRYANT).

Mr. BRYANT. Mr. Speaker, I thank my friend for yielding me this time.

Mr. Speaker, I rise today in support of this legislation which would authorize the Secretary of Education to award a grant to the University of Tennessee in Knoxville to establish the Howard Baker School of Government and its endowment fund.

Mr. Speaker, this is an important piece of legislation because it honors a man who has dedicated his life to public service while providing a forum to help advance the principles of democratic citizenship, civic duty and public responsibility, which he embodies.

After serving in the United States Senate from 1967 until 1985 and as President Reagan's chief of staff from February 1987 until July of 1988, Howard Baker returned to his private life and the practice of law in Huntsville, Tennessee. Following undergraduate studies at the University of the South and at Tulane University, Senator Baker received his law degree from the University of Tennessee. He served 3 years in the United States Navy during World War II.

Senator Baker first won national recognition in 1973 as the vice chairman of the Senate Watergate Committee. He was a keynote speaker at the Republican National Convention in 1976 and was a candidate for the Republican Presidential nomination in 1980. He concluded his Senate career by serving two terms as minority leader and two terms as majority leader. Senator Baker has received many awards, including the presidential medal of freedom, our Nation's highest civilian award and the Jefferson Award for the greatest public service performed by an elected or appointed official.

I am proud to be a cosponsor of this bill, and I urge its adoption by this body.

Mr. MARTINEZ. Mr. Speaker, I yield such time as he may consume to the gentleman from Oklahoma (Mr. COBURN).

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

Mr. COBURN. Mr. Speaker, I was not going to speak on this bill, but after hearing what I have heard and thinking about $31 million to honor politicians that were intimately involved in giving us a $6 trillion debt, there is something not quite right with that as I sit and think about it. There is no question that these were great public servants, but the fact is that on their watch, our children's future was mortgaged, and not mortgaged just to a small extent, to a very great extent.

We talk about this being an authorization bill. Well, why is it an authorization bill with the very anticipation that the next appropriations cycle, the money is going to be spent. So we are going to take $31 million of the taxpayers' money and create new university setting programs in honor of these five former Senators. We are fighting with the President right now, and we are playing all sorts of games with the budget so we will not touch Social Security, and we are here adding $31 million back.

This may be a very worthwhile project, but the timing on it stinks. This is not the time to do this; this is not the year to do this. When we truly are in a surplus, and that means no Social Security money spent, no Federal employees' money spent, no inland waterway trust fund spent, no highway transportation money spent out of the trust fund, no airway trust fund money spent, that is the time for us to do this.

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The American taxpayers today pay a higher percentage of their income in taxes than they have ever paid in their lives, with the exception of World War II.

Why is it that we cannot pass a tax cut, but we can spend $31 million to build new glory centers for former Senators of the United States Senate? I object, not on the grounds for me personally, but I object for my grandchildren and the children that are going to follow them, and every grandchild in this country, that we should not be spending and authorizing $31 million to be spent for any purpose that is other than absolutely necessary at this time.

Mr. HILLEARY. Mr. Speaker, I yield 3 minutes to the gentleman from Rogersville, Tennessee (Mr. JENKINS).

Mr. JENKINS. Mr. Speaker, I thank the gentleman from Tennessee for yielding time to me.

Mr. Speaker, in the closing hours of this session, which is, like all sessions, somewhat hectic, it is a pleasure to have an opportunity to ask my colleagues to vote for Senate Bill 440.

In part, it has been pointed out, it establishes the Howard H. Baker School of Government at the University of Tennessee. Unlike the last speaker who spoke on this subject, I think nothing could be more fitting and nothing could be more appropriate. Those of us who have served the State of Tennessee and who have served our Nation as Tennesseans have long sought Senator Howard Baker's counsel. That advice that we sought has always been forthcoming, it has always been wholesome, and it has always been filled with wisdom.

The gentleman from Tennessee (Mr. BRYANT) pointed out the capacities in which Senator Baker has served. I would point out that he has brought great credit to the State of Tennessee and to this entire Nation in every capacity in which he has served.

Mr. Speaker, I would urge every Member to vote for Senate 440.

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

Mr. Speaker, I would like to finish up by, one, thanking the gentleman from Pennsylvania (Chairman GOODLING) for allowing us to actually bring this bill to the floor today. If he had not waived jurisdiction on the committee, we would have not gotten it in this session of Congress, so I appreciate his support for these schools of government.

Finally, I would like to just talk a moment about Senator Baker. Senator Baker is without question my most famous constituent. He is, as has been said earlier, and I would agree with this, that he is the most famous living Tennessean in the country that we have, and his contribution to this country, we could spend hours talking about that.

My personal relationship with him is what I would like to close with. He has been my mentor from the get-go, when I first decided to run for public office. I made the trip up to Huntsville, Tennessee, to his law office, and just discussed what I thought about what my issues were, what my beliefs were. He said, son, I think you ought to run for public office. I think you have what it takes.

I will never forget that conversation, here a great man like Howard Baker having this one-on-one conversation with little VAN HILLEARY from Spring City, Tennessee. I cannot think of a more fitting tribute to this man, who graduated from the University of Tennessee the same year my father did.

I am a graduate of the University of Tennessee. I actually took many classes in the Department of Political Science there. I just cannot think of a more fitting tribute to the University or to the Senator than to have this school of government named after him.

Mr. Speaker, I would urge all my colleagues to vote for this bill, not only to honor Senator Baker, but the other Senators involved in the bill.

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

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

The SPEAKER pro tempore (Mr. PEASE). The question is on the motion offered by the gentleman from Tennessee (Mr. HILLEARY) that the House suspend the rules and pass the Senate bill, S. 440.

The question was taken.

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

The yeas and nays were ordered.

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

DIRECTING THE SECRETARY OF THE INTERIOR TO CONVEY CERTAIN LANDS TO THE COUNTY OF RIO ARRIBA, NEW MEXICO

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 278) to direct the Secretary of the Interior to convey certain lands to the county of Rio Arriba, New Mexico.

The Clerk read as follows:

S. 278

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

SECTION 1. OLD COYOTE ADMINISTRATIVE SITE.

(a) CONVEYANCE OF PROPERTY.—Not later than one year after the date of enactment of this Act, the Secretary of the Interior (herein ''the Secretary'') shall convey to the County of Rio Arriba, New Mexico (herein ''the County''), subject to the terms and conditions stated in subsection (b), all right, title, and interest of the United States in and to the land (including all improvements on the land) known as the ''Old Coyote Administrative Site'' located approximately ½ mile east of the Village of Coyote, New Mexico, on State Road 96, comprising one tract of 130.27 acres (as described in Public Land Order 3730), and one tract of 276.76 acres (as described in Executive Order 4599).

(b) TERMS AND CONDITIONS.—

(1) Consideration for the conveyance described in subsection (a) shall be—

(A) an amount that is consistent with the special pricing program for Governmental entities under the Recreation and Public Purposes Act; and

(B) an agreement between the Secretary and the County indemnifying the Government of the United States from all liability of the Government that arises from the property.

(2) The lands conveyed by this Act shall be used for public purposes. If such lands cease to be used for public purposes, at the option of the United States, such lands will revert to the United States.

(c) LAND WITHDRAWALS.—Land withdrawals under Public Land Order 3730 and Executive Order 4599 as extended in the Federal Register on May 25, 1989 (54 F.R. 22629) shall be revoked simultaneous with the conveyance of the property under subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

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

Mr. Speaker, S. 278, introduced by Senator DOMENICI of New Mexico, directs the Secretary of the Interior and the Secretary of Agriculture to convey land known as the Old Coyote Administrative Site to the county of Rio Arriba, New Mexico.

This site includes a Forest Service tract of 130 acres and a BLM tract of 276 acres. The site was vacated by the Forest Service in 1993. This legislation is patterned after a similar transfer that the 103rd Congress directed the Secretary of Agriculture to complete in 1993 on the Old Taos Ranger District Station.

As with Taos Station, the Coyote Station will continue to be used for public purposes, including a community center and a fire substation. Some buildings will also be available for the county to use for storage of road maintenance equipment and other county vehicles.

The conveyance will be consistent with the Recreation and Public Purposes Act pricing program. The lands

must be used for public purposes, and revert back to the U.S. Government if not used for these purposes.

Mr. Speaker, this is a good bill, and I ask my colleagues to support it.

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

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 278 is a companion measure to a bill introduced by my colleague on the Committee on Resources, the gentleman from New Mexico (Mr. UDALL). The bill directs the Secretary of the Interior to convey land known as the Old Coyote Administrative Site to the county of Rio Arriba in New Mexico.

The site, which is approximately 307 acres, was formerly used by the Forest Service, but was vacated in 1993 when the Forest Service moved to a new location. The legislation provides for the transfer of the property to the county at a reduced price. The land must be used for a public purpose, and will revert back to the Federal government if not used for these purposes.

It is our understanding the county will continue to use the site for public purposes, including a community center and a fire substation. Mr. Speaker, S. 278 is a noncontroversial item which I support. I want to congratulate my colleagues who have offered this legislation.

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

Mr. HANSEN. Mr. Speaker, I am happy to yield such time as she may consume to the gentlewoman from New Mexico (Mrs. WILSON).

Mrs. WILSON. Mr. Speaker, I want to thank the chairman for yielding time to me, and thank the Committee on Resources, and particularly the chairman, for bringing this bill up. As we approach the end of this session of the Congress, there are a lot of things we are trying to wrap up. This is one that has been pending for some time.

This Rio Arriba legislation authorizes the transfer of a little more than 400 acres of Federal land in the Old Coyote Ranger District Station near Coyote, New Mexico, and it would give it to Rio Arriba County so they can have that land and those buildings for county purposes and public purposes. They are going to use those buildings for a community center, for a fire station, for their storage and road maintenance equipment, and I think it is a win-win situation.

The Federal government no longer wants to maintain those buildings and has moved to a new ranger station about 6 miles away, so this is a good land transfer bill. This bill passed the Senate in the last session of the Congress, did not pass the House in the waning days. When we finish this here today, it will go to the President for his signature. He has already indicated that he is supportive of this legislation.

This is often the case in the West, we need to do these little Federal land transfer bills because so much of the West is owned by the Federal government.

I thank the gentleman for his attention to this matter, and I commend particularly Senator DOMENICI for stewarding this through.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Speaker, this legislation provides for a transfer by the Secretary of the Interior of real property and improvements at an abandoned and surplus ranger station in the Carson National Forest to Rio Arriba County.

This site is known locally as the Old Coyote Administration Site, and it is located near the town of Coyote, New Mexico. This site will continue to be used for public purposes, and may be used as a community center, fire station, fire substation, storage facilities, or space to repair road maintenance equipment or other county vehicles.

Mr. Speaker, the Forest Service has moved its operations to a new facility and has determined that this site is of no further use. Furthermore, the Forest Service has notified the General Services Administration that improvements to the site are considered surplus and the sites are available for disposal.

In addition, the lands on which the facility is built is withdrawn public domain land, and falls under the jurisdiction of the Bureau of Land Management. Since neither the Bureau of Land Management nor the Forest Service has future plans to utilize this site, the transfer of the land and the facilities to Rio Arriba County would create a benefit to a community that would make productive use of it.

This county is one that has a heavy Federal land presence. This will enable them to utilize the land that they have not been able to have and be able to do some very productive things.

In summary, this legislation creates a situation in which the Federal government, the State of New Mexico, and the people of Rio Arriba County all benefit. I urge my colleagues to support this bill. It is a good bill. I also want to thank our senior Senator from New Mexico, Senator DOMENICI, for all his hard work on this bill over the years.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the Senate bill, S. 278.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 440 and S. 278.

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

There was no objection.

ANNOUNCEMENT OF MEASURES TO BE CONSIDERED UNDER SUSPENSION OF THE RULES

Mr. HANSEN. Mr. Speaker, pursuant to House resolution 374, I announce the following measures be taken up under suspension of the rules:

S. 1398, Regarding Coastal Barriers;

H.R. 3381, OPIC reauthorization;

H. Con. Res. 128, Treatment of Religious Minorities in Iran.

MINUTEMAN MISSILE NATIONAL HISTORIC SITE ESTABLISHMENT ACT OF 1999

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 382) to establish the Minuteman Missile National Historic Site in the State of South Dakota, and for other purposes.

The Clerk read as follows:

S. 382

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 ''Minuteman Missile National Historic Site Establishment Act of 1999''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Minuteman II intercontinental ballistic missile (referred to in this Act as ''ICBM'') launch control facility and launch facility known as ''Delta 1'' and ''Delta 9'', respectively, have national significance as the best preserved examples of the operational character of American history during the Cold War;

(2) the facilities are symbolic of the dedication and preparedness exhibited by the missileers of the Air Force stationed throughout the upper Great Plains in remote and forbidding locations during the Cold War;

(3) the facilities provide a unique opportunity to illustrate the history and significance of the Cold War, the arms race, and ICBM development; and

(4) the National Park System does not contain a unit that specifically commemorates or interprets the Cold War.

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve, protect, and interpret for the benefit and enjoyment of present and future generations the structures associated with the Minuteman II missile defense system;

(2) to interpret the historical role of the Minuteman II missile defense system—

(A) as a key component of America's strategic commitment to preserve world peace; and

(B) in the broader context of the Cold War; and

(3) to complement the interpretive programs relating to the Minuteman II missile defense system offered by the South Dakota Air and Space Museum at Ellsworth Air Force Base.

SEC. 3. MINUTEMAN MISSILE NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Minuteman Missile National Historic Site in the State of South Dakota (referred to in this Act as the ''historic site'') is established as a unit of the National Park System.

(2) COMPONENTS OF SITE.—The historic site shall consist of the land and interests in land comprising the Minuteman II ICBM launch control facilities, as generally depicted on the map referred to as ''Minuteman Missile National Historic Site'', numbered 406/80,008 and dated September, 1998, including—

(A) the area surrounding the Minuteman II ICBM launch control facility depicted as ''Delta 1 Launch Control Facility''; and

(B) the area surrounding the Minuteman II ICBM launch control facility depicted as ''Delta 9 Launch Facility''.

(3) AVAILABILITY OF MAP.—The map described in paragraph (2) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(4) ADJUSTMENTS TO BOUNDARY.—The Secretary of the Interior (referred to in this Act as the ''Secretary'') is authorized to make minor adjustments to the boundary of the historic site.

(b) ADMINISTRATION OF HISTORIC SITE.—The Secretary shall administer the historic site in accordance with this Act and laws generally applicable to units of the National Park System, including—

(1) the Act entitled ''An Act to establish a National Park Service, and for other purposes'', approved August 25, 1916 (16 U.S.C. 1 et seq.); and

(2) the Act entitled ''An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes'', approved August 21, 1935 (16 U.S.C. 461 et seq.).

(c) COORDINATION WITH HEADS OF OTHER AGENCIES.—The Secretary shall consult with the Secretary of Defense and the Secretary of State, as appropriate, to ensure that the administration of the historic site is in compliance with applicable treaties.

(d) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with appropriate public and private entities and individuals to carry out this Act.

(e) LAND ACQUISITION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may acquire land and interests in land within the boundaries of the historic site by—

(A) donation;

(B) purchase with donated or appropriated funds; or

(C) exchange or transfer from another Federal agency.

(2) PROHIBITED ACQUISITIONS.—

(A) CONTAMINATED LAND.—The Secretary shall not acquire any land under this Act if the Secretary determines that the land to be acquired, or any portion of the land, is contaminated with hazardous substances (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601)), unless, with respect to the land, all remedial action necessary to protect human health and the environment has been taken under that Act.

(B) SOUTH DAKOTA LAND.—The Secretary may acquire land or an interest in land owned by the State of South Dakota only by donation or exchange.

(f) GENERAL MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after the date funds are made available to carry out this Act, the Secretary shall prepare a general management plan for the historic site.

(2) CONTENTS OF PLAN.—

(A) NEW SITE LOCATION.—The plan shall include an evaluation of appropriate locations for a visitor facility and administrative site within the areas depicted on the map described in subsection (a)(2) as—

(i) ''Support Facility Study Area—Alternative A''; or

(ii) ''Support Facility Study Area—Alternative B''.

(B) NEW SITE BOUNDARY MODIFICATION.—On a determination by the Secretary of the appropriate location for a visitor facility and administrative site, the boundary of the historic site shall be modified to include the selected site.

(3) COORDINATION WITH BADLANDS NATIONAL PARK.—In developing the plan, the Secretary shall consider coordinating or consolidating appropriate administrative, management, and personnel functions of the historic site and the Badlands National Park.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

(b) AIR FORCE FUNDS.—

(1) TRANSFER.—The Secretary of the Air Force shall transfer to the Secretary any funds specifically appropriated to the Air Force in fiscal year 1999 for the maintenance, protection, or preservation of the land or interests in land described in section 3.

(2) USE OF AIR FORCE FUNDS.—Funds transferred under paragraph (1) shall be used by the Secretary for establishing, operating, and maintaining the historic site.

(c) LEGACY RESOURCE MANAGEMENT PROGRAM.—Nothing in this Act affects the use of any funds available for the Legacy Resource Management Program being carried out by the Air Force that, before the date of enactment of this Act, were directed to be used for resource preservation and treaty compliance.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN)

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

Mr. Speaker, S. 382, introduced by Senator TIM JOHNSON from South Dakota, authorizes the establishment of the Minuteman Missile National Historic Site in the State of South Dakota as a unit of the National Park System. Recognition should also go to the gentleman from South Dakota (Mr. THUNE), who has worked very hard to move this bill forward through the House.

Mr. Speaker, in 1961, at the height of the Cold War, the United States deployed the Minuteman Intercontinental Ballistic Missile. By 1963, Ellsworth Air Force Base in South Dakota had a large combat-ready missile wing with 165 sites. With the collapse of the Soviet Union, the Cold War effectively ended, and in 1991 the United States signed the Strategic Arms Reduction Treaty with the Soviet Union.

START I required that all Minuteman II missiles be deactivated, and in fact, the Delta Nine launch silo is the only IBM launch tube remaining. A special resource study which was completed in 1995 by the Departments of the Interior and Defense determined that establishing the Minuteman Missile National Historic Site was suitable and feasible.

This site will be comprised of separate and discrete areas consisting of the Delta One launch control facility, the Delta Nine launch facility, along with a proposed visitor center administrative facility. The Secretary of the Interior is also directed to prepare a management plan for the site, in coordination with the Badlands National Park.

This bill is supported by the administration and the minority, and I urge my colleagues to support S. 382.

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

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 382, as just explained by the subcommittee chair, establishes the Minuteman National Historic Site in South Dakota to encompass both the Delta One and Delta Nine missile site at Ellsworth Air Force Base.

We have no problem with this legislation, and recommend its passage.

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

Mr. HANSEN. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota (Mr. THUNE).

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

Mr. Speaker, first let me thank the distinguished gentleman from Utah (Mr. HANSEN), the chairman, for all his help in moving this legislation.

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The other body has passed Senate bill 382, the Minuteman Missile National Historic Site Establishment Act of 1999, by unanimous consent back on March 25, 1999, and I urge the House to pass the bill today.

I, like many other Americans, grew up during the Cold War when tensions between America and the Soviet Union were at their highest point. My memories of this time are vivid. I remember Vietnam, the renewed arms race, and the immense pride and patriotism that I felt when the Berlin Wall came down. During this period, 150 Minuteman II missiles remained on nuclear alert at Ellsworth Air Force Base.

In western South Dakota, the 44th Missile Wing blended with the scenery with the Black Hills as a backdrop. Spread out over 13,500 square miles, the soldiers grew to know the locals and the locals the soldiers. On the Fourth of July, 1994, when the wing was deactivated, something was missing on the high plains of western South Dakota. On occasion, I still meet soldiers who

manned the silo stationed at Ellsworth, and they tell me how wonderful the people of South Dakota are.

Mr. Speaker, I grew up in Murdo, South Dakota, just 60 miles east on Interstate 90 from the Delta-1 Command Center. Surrounding that center were 10 nuclear missiles. In South Dakota, an important reality of the Cold War existed. For current generations and generations to come, the creation of the Minuteman Missile National Historic Site would provide an opportunity to see what happened behind the scenes. We can learn more about the story of the lives of the officers and men who lived and worked in the missile silos and command centers.

Our opportunity to preserve this piece of history is limited because all Minuteman II silo launchers have been eliminated except for the site designated Delta-9. Delta-1 and Delta-9 provide a unique opportunity to preserve that history. Under an interagency agreement between the Air Force and the National Park Service, this site has been temporarily preserved. However, this agreement has expired, prompting the need for immediate legislative action.

Congressional action on Senate bill 382 also bears important national security implications. The Ballistic Missile Development Organization's National Missile Defense program uses the boosters from Minuteman missiles in testing. However, the Strategic Arms Reduction Treaty, or START, precludes the use of encryption technology during flight tests until all missiles of a type have been retired or turned into a museum. Preservation of this site would eliminate the security concern.

From a purely practical standpoint, the site is conveniently located along the major access highway to the Black Hills National Forest, Mount Rushmore National Monument and the Badlands National Park. The Minuteman Missile site would form a mutually beneficial relationship with the existing attractions.

Mr. Speaker, we now face a crucial point that demands action. In addition to the encryption issue, an important landmark would be lost forever should the site be destroyed. These sites serve as an important reminder of our Cold War strategy and should be preserved for today and future generations.

Mr. Speaker, there is a sign painted on the door leading into the Delta-1 control room. Below a pizza box someone wrote, and I quote, ''Worldwide delivery in 30 minutes or less, or your next one is free.'' Dark humor, I know, but it was a reality. Civilization as we all know it could have been destroyed in 30 minutes. The character and personalities of our soldiers who served a critical role in the defense of our Nation should be preserved.

Mr. Speaker, I therefore ask the House to join me in supporting this important legislation and to move closer to the establishment of what would prove to be an invaluable asset to this Nation.

Mr. Speaker, I thank the gentleman from Utah (Mr. HANSEN) for his work in helping us move this legislation forward.

First, let me thank Chairman YOUNG and Chairman HANSEN for all their help moving this legislation. The other body passed S. 382, the Minuteman Missile National Historic Site Establishment Act of 1999, by unanimous consent on March 25, 1999, and I urge the House to pass the bill today.

I, like many Americans, grew up during the Cold War when tensions between America and the Soviet Union were at their highest point. My memories of this time are vivid. I remember Vietnam, the renewed arms race, and the immense pride and patriotism I felt when the Berlin Wall came down. During this period, 150 Minuteman II missiles remained on nuclear alert at Ellsworth AFB.

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I grew up in Murdo, South Dakota, just 60 miles east on I–90 from the Delta One command center. Surrounding that center were 10 nuclear missiles. In South Dakota, an important reality of the Cold War existed. For current generations and generations to come, the creation of the Minuteman Missile National Historic Site would provide an opportunity to see what happened behind the scenes. We can learn more about the story of the lives of the officers who lived and worked in the missile silos and command centers.

Our opportunities to preserve this piece of history are limited because all Minuteman II silo launchers have been eliminated except for the site designated Delta-9. Delta-1 and Delta-9 would provide a unique opportunity to preserve that history. Under an interagency agreement between the Air Force and the National Park Service, this site has been temporarily preserved. However, this agreement has expired, prompting the need for immediate legislative action.

Congressional action on S. 382 also bears important national security implications. The Ballistic Missile Development Organization's National Missile Defense program uses the boosters from Minuteman Missiles in testing. However, the Strategic Arms Reduction Treaty (START) precludes the use of encryption technology during flight tests until all missiles of a type have been retired or turned into a museum. Preservation of this site would eliminate this security concern.

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We now face a crucial point that demands action. In addition to the encryption issue, an important landmark would be lost forever should the site be destroyed. These sites serve as an important reminder of our Cold War strategy and should be preserved for today and future generations.

There is a sign painted on the door leading into the Delta One control room. Below a pizza box, someone wrote, ''World-wide delivery in 30 minutes or less or your next one is free.'' Dark humor, I know, but it was a reality. Civilization as we all know it could have been destroyed in 30 minutes. The character and personalities of our soldiers who served a critical role in the defense of our nation should be preserved.

I therefore, ask the House to join me in supporting this important legislation and move closer to the establishment of what would prove to be an invaluable asset to this nation.

Mr. HEFLEY. Mr. Speaker, I rise in support of S. 382 with one reservation. I do not oppose the establishment of the Minuteman Missile National Historic Site in the State of South Dakota. I do, however, have significant concerns with directing the Secretary of the Air Force to transfer funds to the Secretary of the Interior for the purpose of establishing, operating, and maintaining the site.

In my judgment, the financial responsibility for maintaining the National Park System does not rest with the Department of the Air Force. Section 4(b) of the bill provides for such a transfer of funds. However, I would note that the funds specified for transfer in section 4(b)(1) have expired. In the interest of facilitating the establishment of the Minuteman Missile National Historic Site, I saw no need, as a member of the Committee on Resources, to strike the moot provision concerning the transfer of funds and thereby send the bill back to the Senate at this late date in the session.

As a member of the Committee on Armed Services and Chairman of the Subcommittee on Military Installations and Facilities, I want to note further that an authorization to transfer such funds is properly within the jurisdiction of the Committee on Armed Services. I think it is fair to say that the Committee, and certainly this member, would oppose any effort to compel the Secretary of the Air Force to utilize military construction, operations and maintenance, or other funds authorized and appropriated for fiscal year 2000 to support the establishment, operations, and maintenance of this site.

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

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the Senate bill, S. 382.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and add extraneous material on S. 382, the Senate bill just passed.

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

There was no objection.

PERSONAL EXPLANATION

Mr. HILL of Montana. Mr. Speaker, I was unavoidably detained on Tuesday, November 16, for personal medical leave. Should I have been present for rollcall votes 587 through 595, I would have voted the following way:

On rollcall vote 587, I would have voted yes; on rollcall vote 588, I would have voted yes; on rollcall vote 589, I would have voted yes; on rollcall vote 590, I would have voted yes; on rollcall vote 591, I would have voted yes; on rollcall vote 592, I would have voted yes; rollcall vote 593, I would have voted yes; on rollcall vote 594, I would have voted yes; on rollcall vote 595, I would have voted no.

CITY OF SISTERS, OREGON, LAND CONVEYANCE

Mrs. CHENOWETH-HAGE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 416) to direct the Secretary of Agriculture to convey to the city of Sisters, Oregon, a certain parcel of land for use in connection with a sewage treatment facility, as amended.

The Clerk read as follows:

S. 416

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

SECTION 1. FINDINGS.

Congress finds that—

(1) the city of Sisters, Oregon, faces a public health threat from a major outbreak of infectious diseases due to the lack of a sewer system;

(2) the lack of a sewer system also threatens groundwater and surface water resources in the area;

(3) the city is surrounded by Forest Service land and has no reasonable access to non-Federal parcels of land large enough, and with the proper soil conditions, for the development of a sewage treatment facility;

(4) the Forest Service currently must operate, maintain, and replace 11 separate septic systems to serve existing Forest Service facilities in the city of Sisters; and

(5) the Forest Service currently administers 77 acres of land within the city limits that would increase in value as a result of construction of a sewer system.

SEC. 2. CONVEYANCE.

(a) IN GENERAL.—As soon as practicable and upon completion of any documents or analysis required by any environmental law, but not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall convey to the city of Sisters, Oregon, (hereinafter referred to as the ''city'') an amount of land that is not more than is reasonably necessary for a sewage treatment facility and for the disposal of treated effluent consistent with subsection (c).

(b) LAND DESCRIPTION.—The amount of land conveyed under subsection (a) shall be 160 acres or 240 acres from within—

(1) the SE quarter of section 09, township 15 south, range 10 west, W.M., Deschutes, Oregon, and the portion of the SW quarter of section 09, township 15 south, range 10 west, W.M., Deschutes, Oregon, that lies east of Three Creeks Lake Road, but not including the westernmost 500 feet of that portion; and

(2) the portion of the SW quarter of section 09, township 15 south, range 10 west, W.M., Deschutes County, Oregon, lying easterly of Three Creeks Lake Road.

(c) CONDITION.—

(1) IN GENERAL.—The conveyance under subsection (a) shall be made on the condition that the city—

(A) shall conduct a public process before the final determination is made regarding land use for the disposition of treated effluent,

(B) except as provided by paragraph (2), shall be responsible for system development charges, mainline construction costs, and equivalent dwelling unit monthly service fees as set forth in the agreement between the city and the Forest Service in the letter of understanding dated October 14, 1999; and

(C) shall pay the cost of preparation of any documents required by any environmental law in connection with the conveyance.

(2) ADJUSTMENT IN FEES.—

(A) VALUE HIGHER THAN ESTIMATED.—If the land to be conveyed pursuant to subsection (a) is appraised for a value that is 10 percent or more higher than the value estimated for such land in the agreement between the city and the Forest Service in the letter of understanding dated October 14, 1999, the city shall be responsible for additional charges, costs, fees, or other compensation so that the total amount of charges, costs, and fees for which the city is responsible under paragraph (1)(B) plus the value of the amount of charges, costs, fees, or other compensation due under this subparagraph is equal to such appraised value. The Secretary and the city shall agree upon the form of additional charges, costs, fees, or other compensation due under this subparagraph.

(B) VALUE LOWER THAN ESTIMATED.—If the land to be conveyed pursuant to subsection (a) is appraised for a value that is 10 percent or more lower than the value estimated for such land in the agreement between the city and the Forest Service in the letter of understanding dated October 14, 1999, the amount of equivalent dwelling unit monthly service fees for which the city shall be responsible under paragraph (1)(B) shall be reduced so that the total amount of charges, costs, and fees for which the city is responsible under that paragraph is equal to such appraised value.

(d) USE OF LAND.—

(1) IN GENERAL.—The land conveyed under subsection (a) shall be used by the city for a sewage treatment facility and for the disposal of treated effluent.

(2) OPTIONAL REVERTER.—If at any time the land conveyed under subsection (a) ceases to be used for a purpose described in paragraph (1), at the option of the United States, title to the land shall revert to the United States.

(e) AUTHORITY TO ACQUIRE LAND IN SUBSTITUTION.—Subject to the availability of appropriations, the Secretary shall acquire land within Oregon, and within or in the vicinity of the Deschutes National Forest, of an acreage equivalent to that of the land conveyed under subsection (a). Any lands acquired shall be added to and administered as part of the Deschutes National Forest.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Idaho (Mrs. CHENOWETH-HAGE) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentlewoman from Idaho (Mrs. CHENOWETH-HAGE).

GENERAL LEAVE

Mrs. CHENOWETH-HAGE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 416.

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

There was no objection.

Mrs. CHENOWETH-HAGE. Mr. Speaker, I yield myself such time as I may cosume.

Mr. Speaker, Senate bill 416 was introduced by Senator GORDON SMITH of Oregon. This legislation would direct the Secretary of Agriculture to convey to the City of Sisters, Oregon, a certain parcel of land for use in connection with a sewage treatment facility.

Now, the gentleman from Oregon (Mr. WALDEN), our colleague, should be commended for his dedication to this issue. He has worked tirelessly with the Forest Service and with the mayor of Sisters, Oregon, to shape Senate bill 416 so it could be passed today.

Senate 416 was favorably reported, as amended, from the full committee by voice vote on October 20, 1999.

Mr. Speaker, I urge my colleagues to support passage of Senate bill 416 under suspension of the rules.

Mr. Speaker, I yield such time as he may consume to the gentleman from Oregon (Mr. WALDEN) for further explanation of the bill.

Mr. WALDEN of Oregon. Mr. Speaker, I thank the gentlewoman from Idaho (Mrs. CHENOWETH-HAGE) for her work on this legislation, and I would like to thank the gentleman from California (Mr. MILLER) from the committee as well for his help in crafting the agreement that we approved.

Mr. Speaker, Senate bill 416 is of the utmost importance to the health and welfare of the constituents of my district. This legislation will convey a parcel of land for the use by the City of Sisters, Oregon, for the development of a sewage treatment facility. It has strong bipartisan support from its cosponsors, Senator WYDEN and Senator SMITH, and it passed unanimously in the other body.

The bill also has the support of the gentleman from Oregon (Mr. DEFAZIO), my fellow Oregonian across the aisle who serves on the Committee on Resources as well.

Mr. Speaker, Sisters, Oregon is a popular tourist town surrounded by the Deschutes National Forest. Unfortunately, it lacks a wastewater treatment facility to support its residents who must use septic systems. There is a critical need for a treatment facility due to the failure of many of the aging septic tanks in this community.

There is a current and immediate health threat from surfacing effluent, to put it delicately. During the summer months, in order to accommodate tourists who often visit the surrounding lands, the city must place approximately 60 portable toilets around the town.

Even though the city is economically distressed, it has put together a financing package of approximately $7 million for a wastewater treatment facility. Unfortunately, additional funds to acquire land for the treatment facility

and the disposition of treated wastewater are currently beyond the residents' ability to pay, which is why we are here today.

Mr. Speaker, this bill, as amended, represents a bipartisan agreement for exchange of land for the City of Sisters in exchange for a waiver of hook-up fees and future services between its surrounding neighbor, the U.S. Forest Service. This agreement will allow a much-needed wastewater treatment facility to be built for the benefit of the residents of Sisters, the Forest Service and its employees, and the visitors who stop by this busy wayside as they travel through Oregon and vacation in nearby Forest Service lands.

The Federal Government will save tens of thousands of dollars in hook-up fees and future treatment expenses. The residents of Sisters will get the land they need to construct a treatment facility that will eliminate the health hazards they face.

Mr. Speaker, I want to thank Mayor Steve Wilson of Sisters, the Deschutes Forest Supervisor Sally Collins, and the Subcommittee on Forests and Forest Health staff, and the minority staff as well, for all the hard work they put into this well-conceived legislation. I strongly support passage of Senate bill 416.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

(Mr. GEORGE MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to commend the gentleman from Oregon (Mr. WALDEN) who just spoke in the well for all the work that he did on this legislation, along with the gentleman from Oregon (Mr. DEFAZIO). The gentleman has quite properly explained the impact of the legislation and we are in agreement with him and urge its passage.

Mr. Speaker, S. 416 directs the Secretary of Agriculture to convey, after a public process, either 160 or 240 acres to the City of Sisters, Oregon for use as a sewage treatment facility. The City of Sisters is surrounded by federal land and is in dire need of a wastewater treatment plant. While I recognize that this is a worthy cause, I do not support the practice of giving away federal land. Nor do I support legislating land conveyances that circumvent the administrative process and fair market value requirements.

Nevertheless, I no longer object to this bill because under my amendment which the Committee adopted, the Forest Service will be adequately compensated for the land it conveys to the city. The city has agreed to waive sewage treatment-related costs for the Forest Service in the facility's service area in an amount equal to the value of the federal land. The bill also provides that if the final federal appraisal deviates by ten percent or more from the city's preliminary appraisal, then the city and the Secretary would have to mutually agree on compensation to attain the higher appraised value. This provision ensures that the federal government gets a close approximation of fair market value for its land.

I commend Mr. Walden for his hard work on this bill and his willingness to work with me to address my concerns, as well as those of the Forest Service. I urge my colleagues to support S. 416, as amended.

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

Mrs. CHENOWETH-HAGE. Mr. Speaker, I have no more requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Idaho (Mrs. CHENOWETH-HAGE) that the House suspend the rules and pass the Senate bill, S. 416, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

TORRES MARTINEZ DESERT CAHUILLA INDIANS AND GUIDIVILLE BAND OF POMO INDIANS OF GUIDIVILLE INDIAN RANCHERIA LAND LEASES

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1953) to authorize leases for terms not to exceed 99 years on land held in trust for the Torres Martinez Desert Cahuilla Indians and the Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria, as amended.

The Clerk read as follows:

H.R. 1953

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

SECTION 1. AUTHORIZATION OF 99-YEAR LEASES.

(a) IN GENERAL.—The first section of the Act entitled ''An Act to authorize the leasing of restricted Indian lands for public, religious, educational, residential, business, and other purposes requiring the grant of long-term leases'', approved August 9, 1955 (25 U.S.C. 415(a)), is amended by inserting ''lands held in trust for the Torres Martinez Desert Cahuilla Indians, lands held in trust for the Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria, lands held in trust for the Confederated Tribes of the Umatilla Indian Reservation'' after ''Sparks Indian Colony,''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any lease entered into or renewed after the date of the enactment of this Act.

SEC. 2. REVOCATION OF CHARTER OF INCORPORATION.

The request of the Stockbridge-Munsee Community of Wisconsin to surrender the charter of incorporation issued to the Community on May 21, 1938, pursuant to section 17 of the Act of June 18, 1934, (commonly known as the ''Indian Reorganization Act'') is hereby accepted and that charter of incorporation is hereby revoked.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

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

Mr. Speaker, H.R. 1953 is a technical amendments bill which will authorize leases for terms not to exceed 99 years on lands held in trust for the Torres Martinez Desert Cahuilla Indians, the Confederated Tribes of the Umatilla Indian Reservation, and the Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria.

Mr. Speaker, this bill will also revoke a Federal corporate charter granted to the Stockbridge-Munsee Community Band of Mohican Indians in 1938. The band has asked us to revoke the charter because it is outdated, because it has never been used, and because it has been suspended by another charter. Only the Congress can revoke this charter.

Existing Federal law, which limits the leasing of land held in trust for Indian tribes to a period of not more than 25 years, has proven to be unrealistic in today's world of large investment requirements. Tribes need expanded leasing authority to increase on-reservation housing and to facilitate economic development.

Mr. Speaker, I support this technical amendment and urge my colleagues to pass same.

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

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

(Mr. GEORGE MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, I would say that the gentleman from Utah (Mr. HANSEN) has quite properly explained the legislation. The tribe has requested this matter, and it is similar to legislation that we have passed in previous years. I recommend that we support this legislation.

Mrs. BONO. Mr. Speaker, I rise in support of the motion to suspend the rules and pass H.R. 1953. This is legislation that I introduced earlier this term in an effort to assist two tribes and some of the finest people in my community. The ability for these sovereign governments to execute 99-year leases is critical for their self-sufficiency and the diversity necessary for further economic viability. In addition, I support the new provisions added via the manager's amendment and am pleased that all of these contained provisions have been approved by the proper representatives of both parties.

Briefly, I would like to explain to my colleagues what Congress is accomplishing with this bill. Currently, federal law limits these tribes to executing a 25-year lease that may be renewed once for a second 25-year term. The bill's stated worthy purposes for public, religious, educational, residential, and business development reflect the future goals of the tribes and require this federal action permitting these entities the ability to grant long-term leases of 99 years.

One key principle that must remain fixed within the foundation of federal Native American policy is preserving the sovereignty of Indian tribes. This stated policy is unfortunately

meaningless if Congress fails in its duty to exercise its legislative authority and empower tribes. Tribes must have the appropriate legal authority through the necessary tools for true self-sufficiency, governance, and development. They must be free to undertake the type of modern development that this bill contemplates. This is a fair and equitable result for the meaningful self-determination worthy of a sovereign nation and its people going into the 21st century.

In conclusion, I wish to express my sincere gratitude to the gentleman from Alaska (Chairman DON YOUNG), the gentleman from Utah (Mr. HANSEN), the distinguished ranking member (Mr. MILLER), the gentleman from California (Mr. THOMPSON), and the other Members who were instrumental in the passage of this overdue and worthwhile bill. In addition, I am grateful that my colleagues and I were able to secure its passage this year, because there is no need to delay the implementation of any bill designed with the sole focus of helping Native Americans and Indian tribes.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 1953, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

WATER FEASIBILITY STUDY ON JICARILLA APACHE RESERVATION IN NEW MEXICO

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3051) to direct the Secretary of the Interior, the Bureau of Reclamation, to conduct a feasibility study on the Jicarilla Apache Reservation in the State of New Mexico, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3051

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

SECTION 1. FINDINGS.

Congress finds that—

(1) there are major deficiencies with regard to adequate and sufficient water supplies available to residents of the Jicarilla Apache Reservation in the State of New Mexico;

(2) the existing municipal water system that serves the Jicarilla Apache Reservation is under the ownership and control of the Bureau of Indian Affairs and is outdated, dilapidated, and cannot adequately and safely serve the existing and future growth needs of the Jicarilla Apache Tribe;

(3) the federally owned municipal water system on the Jicarilla Apache Reservation has been unable to meet the minimum Federal water requirements necessary for discharging wastewater into a public watercourse and has been operating without a Federal discharge permit;

(4) the federally owned municipal water system that serves the Jicarilla Apache Reservation has been cited by the United States Environmental Protection Agency for violations of Federal safe drinking water standards and poses a threat to public health and safety both on and off the Jicarilla Apache Reservation;

(5) the lack of reliable supplies of potable water impedes economic development and has detrimental effects on the quality of life and economic self-sufficiency of the Jicarilla Apache Tribe;

(6) due to the severe health threats and impediments to economic development, the Jicarilla Apache Tribe has authorized and expended $4,500,000 of tribal funds for the repair and replacement of the municipal water system on the Jicarilla Apache Reservation; and

(7) the United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Jicarilla Apache Indian Reservation.

SEC. 2. AUTHORIZATION.

(a) AUTHORIZATION.—Pursuant to reclamation laws, the Secretary of the Interior, through the Bureau of Reclamation and in consultation and cooperation with the Jicarilla Apache Tribe, shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water supply for the residents of the Jicarilla Apache Indian Reservation in the State of New Mexico.

(b) REPORT.—Not later than 1 year after funds are appropriated to carry out this Act, the Secretary of the Interior shall transmit to Congress a report containing the results of the feasibility study required by subsection (a).

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $200,000 to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from New Mexico (Mr. UDALL) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

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

Mr. Speaker, the existing water system that is being used to meet the municipal water needs on the Jicarilla Apache Reservation in Northern New Mexico was built in the 1920s by the Bureau of Indian Affairs. The system was originally built solely for the use of the BIA, who continues to own the system. Over the years, the tribe has made random connections to the system. It has deteriorated and become overutilized. However, it is now regarded as the tribe's municipal water source, even though it does not adequately and safely serve the existing and future growth needs of the Jicarilla Apache Tribe.

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In addition, the BIA has been unable to meet the Federal Clean Water Act requirements necessary for discharging wastewater into a public watercourse and has been operating without a Federal discharge permit.

The Bureau of Indian Affairs has seen a growing number of requests to develop, operate, and maintain water systems on Indian reservations throughout the United States. Unfortunately, the BIA has chosen other priorities, with the result that many tribes' needs for safe drinking water have not been addressed. In the last several years, the Jicarilla tribe has spent more than $4.5 million of tribal funds for the repair and replacement of portions of the systems on the reservation.

The purpose of this legislation is to provide some funding to conduct a feasibility study which will evaluate what steps the BIA should take to rehabilitate the system. Since the BIA has failed to fund such an evaluation up to this point, the Bureau of Reclamation, through its Indian Affairs technical assistance office, is being asked to conduct this study.

Based on discussions with the various groups involved with the legislation, no more than $200,000 would need to be authorized to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water system for the reservation. The ultimate authorization and cost of construction will remain the responsibility of the BIA.

I urge passage of this bill.

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

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

(Mr. UDALL of New Mexico asked and was given permission to revise and extend his remarks.)

Mr. UDALL of New Mexico. Mr. Speaker, this bill will authorize and direct the Bureau of Reclamation to conduct a feasibility study with regards to the rehabilitation of the municipal water system of the Jicarilla Apache Reservation, located in the State of New Mexico.

I am very pleased to be joined by several of my colleagues in sponsorship of this important bill. They include the gentleman from New Mexico (Mr. SKEEN) and the gentlewoman from New Mexico (Mrs. WILSON), as well as the gentleman from Alaska (Chairman YOUNG) and the gentleman from California (Mr. GEORGE MILLER), ranking member, the gentleman from Michigan (Mr. KILDEE), the gentleman from Arizona (Mr. HAYWORTH), the gentleman from Rhode Island (Mr. KENNEDY), and the gentleman from California (Mr. BECERRA).

Mr. Speaker, the Jicarilla Apache Reservation relies on one of the most unsafe municipal water systems in the country. While the system is a federally owned entity, the Environmental Protection Agency has, nevertheless, found the system to be in violation of the national safe drinking water standards for the last several years. Since 1995, the water system has continually failed to earn renewal of its National Pollutant Discharge Elimination permit.

The sewage lagoons of the Jicarilla water system are now operating well over 100 percent capacity, spilling wastewater into the nearby arroyo that feeds directly spoke the Navajo River.

Since this river serves as a primary source of groundwater for the region, the resulting pollution of the stream not only affects the reservation, but also travels downstream, creating public health hazards for families and communities both within and well beyond the reservation's borders.

Alarmingly, Jicarilla Apache youth are now experiencing higher than normal incidences of internal organ diseases affecting the liver, kidneys, and stomach, ailments suspected to be related to the contaminated water.

Because of the lack of sufficient water resources, the Jicarilla Tribe is not only facing considerable public health concerns, but it has also had to put a break on other important community improvement efforts, including the construction of much-needed housing and the replacement of deteriorating public schools.

For all of these reasons, the Tribal Council has been forced to declare a state of emergency for the reservation and has appropriated over $4.5 million of its own funds to begin the process of rehabilitating the water system.

Following a disastrous 6-day water outage last October, the Jicarilla investigated and discovered the full extent of the deplorable condition of the water system. Acting immediately to address the problem, the tribe promptly contacted the Bureau of Indian Affairs, the Indian Health Service, the Environmental Protection Agency, and other entities for help in relieving their situation. Yet, due to the budget constraints and other impediments, these agencies were unable to provide financial assistance or take any other substantial action to address the problem.

In particular, the Bureau of Indian Affairs, having found itself to be poorly suited for the operation and maintenance of a tribal water system, has discontinued its policy of operating its own tribal water systems in favor of transferring ownership directly to the tribes. Unfortunately, however, the dangerous condition of the Jicarilla water system precludes its transfer to the tribe until it has been rehabilitated.

Fortunately, the Bureau of Reclamation is appropriately suited to assist the Jicarilla Apache and the BIA in assessing the feasibility of the rehabilitation of the tribe's water system.

In consultation with the Jicarilla Apache Tribe, the Bureau of Reclamation has indicated both its willingness and ability to complete the feasibility study should it be authorized to do so as required by law.

Recognizing this as the most promising solution for addressing the serious water safety problems plaguing the Jicarilla, I and my fellow cosponsors introduced this bill to allow this important process to move forward. I hope the rest of our colleagues will join us in passing this bill to remedy this distressing situation.

Mr. GEORGE MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. UDALL of New Mexico. I yield to the gentleman from California.

Mr. GEORGE MILLER of California. Mr. Speaker, I thank the gentleman for yielding to me. I simply rise in support of the legislation that he and other Members of the delegation have supported and brought to the floor and commend them for their efforts on behalf of the Apache Reservation, due to the fact that the Environmental Protection Agency has found these very serious violations.

I think in fact that this legislation does do what is necessary, and that is, to redeem the trust responsibility of the Federal Government to ensure that this Federal water system supplies the tribe with water that is safe and adequate to meet the health, economic, and environmental needs of the Jicarilla Apaches. I want to thank the gentleman for bringing this matter to the floor and urge support of this legislation.

Mr. Speaker, H.R. 3051 directs the Secretary of Interior to conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water supply for the residents of the Jicarilla Apache Reservation in New Mexico. The study is to be conducted by the Bureau of Reclamation and in consultation and cooperation with the tribe. Further, the bill provides a report be submitted to Congress 1 year after funds are appropriated to carry out the study and authorizes $200,000 to implement the provisions of the legislation.

The Jicarilla Apache Reservation was established in 1887 by executive order and is located at the foot of the San Juan Mountains in north-central New Mexico. The reservation consists of 742,315 acres and ranges in elevation from 6,500 to 9,000 feet.

The existing municipal water system was built by the Bureau of Indian Affairs (BIA) which continues to own the system. It is dilapidated and cannot safely and adequately address the current or future needs of the tribe. The system has been cited by the Environmental Protection Agency (EPA) for violations of Safe Drinking Water Act standards. It poses a severe health threat to the community and impedes economic development by the tribe. In addition, the system has been unable to meet the minimum Federal water requirements necessary for discharging wastewater into a public watercourse and has been operating without a Federal discharge permit.

Over the last several years the tribe has spent over $4.5 million in tribal funds for repair and replacement of portions of the system. This patchwork process will not address the overall problems with the system as it need to be overhauled or replaced. The Federal Government has a trust responsibility to ensure that the Federal water system it supplies to the tribe is safe and adequate to meet the health, economic and environmental needs of tribal members.

I want to commend our colleague, Mr. TOM UDALL from New Mexico, for his hard work in getting this bill before us today. It is an important first step toward ensuring future health and economic progress for the Jicarilla Apache Tribe. I urge my colleagues to support the bill.

Mr. UDALL of New Mexico. Mr. Speaker, I also, just to finally summarize here, want to thank very much the gentleman from Utah (Mr. HANSEN), chairman of the Subcommittee on National Parks and Public Lands, for his hard work on this and for his being able to address this very quickly.

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

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

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 3051, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TRIBAL SELF-GOVERNANCE AMENDMENTS OF 1999

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1167) to amend the Indian Self-Determination and Education Assistance Act to provide for further self-governance by Indian tribes, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1167

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 ''Tribal Self-Governance Amendments of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the tribal right of self-government flows from the inherent sovereignty of Indian tribes and nations;

(2) the United States recognizes a special government-to-government relationship with Indian tribes, including the right of the Indian tribes to self-governance, as reflected in the Constitution, treaties, Federal statutes, and the course of dealings of the United States with Indian tribes;

(3) although progress has been made, the Federal bureaucracy, with its centralized rules and regulations, has eroded tribal self-governance and dominates tribal affairs;

(4) the Tribal Self-Governance Demonstration Project, established under title III of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f note) was designed to improve and perpetuate the government-to-government relationship between Indian tribes and the United States and to strengthen tribal control over Federal funding and program management;

(5) although the Federal Government has made considerable strides in improving Indian health care, it has failed to fully meet its trust responsibilities and to satisfy its obligations to the Indian tribes under treaties and other laws; and

(6) Congress has reviewed the results of the Tribal Self-Governance Demonstration Project and finds that transferring full control and funding to tribal governments, upon tribal request, over decision making for Federal programs, services, functions, and activities (or portions thereof)—

(A) is an appropriate and effective means of implementing the Federal policy of government-to-government relations with Indian tribes; and

(B) strengthens the Federal policy of Indian self-determination.

SEC. 3. DECLARATION OF POLICY.

It is the policy of Congress to—

(1) permanently establish and implement tribal self-governance within the Department of Health and Human Services;

(2) call for full cooperation from the Department of Health and Human Services and its constituent agencies in the implementation of tribal self-governance—

(A) to enable the United States to maintain and improve its unique and continuing relationship with, and responsibility to, Indian tribes;

(B) to permit each Indian tribe to choose the extent of its participation in self-governance in accordance with the provisions of the Indian Self-Determination and Education Assistance Act relating to the provision of Federal services to Indian tribes;

(C) to ensure the continuation of the trust responsibility of the United States to Indian tribes and Indian individuals;

(D) to affirm and enable the United States to fulfill its obligations to the Indian tribes under treaties and other laws;

(E) to strengthen the government-to-government relationship between the United States and Indian tribes through direct and meaningful consultation with all tribes;

(F) to permit an orderly transition from Federal domination of programs and services to provide Indian tribes with meaningful authority, control, funding, and discretion to plan, conduct, redesign, and administer programs, services, functions, and activities (or portions thereof) that meet the needs of the individual tribal communities;

(G) to provide for a measurable parallel reduction in the Federal bureaucracy as programs, services, functions, and activities (or portions thereof) are assumed by Indian tribes;

(H) to encourage the Secretary to identify all programs, services, functions, and activities (or portions thereof) of the Department of Health and Human Services that may be managed by an Indian tribe under this Act and to assist Indian tribes in assuming responsibility for such programs, services, functions, and activities (or portions thereof); and

(I) to provide Indian tribes with the earliest opportunity to administer programs, services, functions, and activities (or portions thereof) from throughout the Department of Health and Human Services.

SEC. 4. TRIBAL SELF-GOVERNANCE.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) is amended by adding at the end the following new titles:

"TITLE V—TRIBAL SELF-GOVERNANCE

"SEC. 501. ESTABLISHMENT.

''The Secretary of Health and Human Services shall establish and carry out a program within the Indian Health Service of the Department of Health and Human Services to be known as the 'Tribal Self-Governance Program' in accordance with this title.

"SEC. 502. DEFINITIONS.

''(a) IN GENERAL.—For purposes of this title—

''(1) the term 'construction project' means an organized noncontinuous undertaking to complete a specific set of predetermined objectives for the planning, environmental determination, design, construction, repair, improvement, or expansion of buildings or facilities, as described in a construction project agreement. The term 'construction project' does not mean construction program administration and activities described in paragraphs (1) through (3) of section 4(m), which may otherwise be included in a funding agreement under this title;

''(2) the term 'construction project agreement' means a negotiated agreement between the Secretary and an Indian tribe which at a minimum—

''(A) establishes project phase start and completion dates;

''(B) defines a specific scope of work and standards by which it will be accomplished;

''(C) identifies the responsibilities of the Indian tribe and the Secretary;

''(D) addresses environmental considerations;

''(E) identifies the owner and operations/maintenance entity of the proposed work;

''(F) provides a budget;

''(G) provides a payment process; and

''(H) establishes the duration of the agreement based on the time necessary to complete the specified scope of work, which may be 1 or more years;

''(3) the term 'inherent Federal functions' means those Federal functions which cannot legally be delegated to Indian tribes;

''(4) the term 'inter-tribal consortium' means a coalition of two or more separate Indian tribes that join together for the purpose of participating in self-governance, including, but not limited to, a tribal organization;

''(5) the term 'gross mismanagement' means a significant, clear, and convincing violation of compact, funding agreement, or regulatory, or statutory requirements applicable to Federal funds transferred to a tribe by a compact or funding agreement that results in a significant reduction of funds available for the programs, services, functions, or activities (or portions thereof) assumed by an Indian tribe;

''(6) the term 'tribal shares' means an Indian tribe's portion of all funds and resources that support secretarial programs, services, functions, and activities (or portions thereof) that are not required by the Secretary for performance of inherent Federal functions;

''(7) the term 'Secretary' means the Secretary of Health and Human Services; and

''(8) the term 'self-governance' means the program established pursuant to section 501.

''(b) INDIAN TRIBE.—Where an Indian tribe has authorized another Indian tribe, an inter-tribal consortium, or a tribal organization to plan for or carry out programs, services, functions, or activities (or portions thereof) on its behalf under this title, the authorized Indian tribe, inter-tribal consortium, or tribal organization shall have the rights and responsibilities of the authorizing Indian tribe (except as otherwise provided in the authorizing resolution or in this title). In such event, the term 'Indian tribe' as used in this title shall include such other authorized Indian tribe, inter-tribal consortium, or tribal organization.

"SEC. 503. SELECTION OF PARTICIPATING INDIAN TRIBES.

''(a) CONTINUING PARTICIPATION.—Each Indian tribe that is participating in the Tribal Self-Governance Demonstration Project under title III on the date of enactment of this title may elect to participate in self-governance under this title under existing authority as reflected in tribal resolutions.

''(b) ADDITIONAL PARTICIPANTS.—

''(1) In addition to those Indian tribes participating in self-governance under subsection (a), each year an additional 50 Indian tribes that meet the eligibility criteria specified in subsection (c) shall be entitled to participate in self-governance.

''(2)(A) An Indian tribe that has withdrawn from participation in an inter-tribal consortium or tribal organization, in whole or in part, shall be entitled to participate in self-governance provided the Indian tribe meets the eligibility criteria specified in subsection (c).

''(B) If an Indian tribe has withdrawn from participation in an inter-tribal consortium or tribal organization, it shall be entitled to its tribal share of funds supporting those programs, services, functions, and activities (or portions thereof) that it will be carrying out under its compact and funding agreement.

''(C) In no event shall the withdrawal of an Indian tribe from an inter-tribal consortium or tribal organization affect the eligibility of the inter-tribal consortium or tribal organization to participate in self-governance.

''(c) APPLICANT POOL.—The qualified applicant pool for self-governance shall consist of each Indian tribe that—

''(1) successfully completes the planning phase described in subsection (d);

''(2) has requested participation in self-governance by resolution or other official action by the governing body (or bodies) of the Indian tribe or tribes to be served; and

''(3) has demonstrated, for the previous 3 fiscal years, financial stability and financial management capability.

Evidence that during such years the Indian tribe had no uncorrected significant and material audit exceptions in the required annual audit of the Indian tribe's self-determination contracts or self-governance funding agreements shall be conclusive evidence of the required stability and capability for the purposes of this subsection.

''(d) PLANNING PHASE.—Each Indian tribe seeking participation in self-governance shall complete a planning phase. The planning phase shall be conducted to the satisfaction of the Indian tribe and shall include—

''(1) legal and budgetary research; and

''(2) internal tribal government planning and organizational preparation relating to the administration of health care programs.

''(e) GRANTS.—Subject to the availability of appropriations, any Indian tribe meeting the requirements of paragraphs (2) and (3) of subsection (c) shall be eligible for grants—

''(1) to plan for participation in self-governance; and

''(2) to negotiate the terms of participation by the Indian tribe or tribal organization in self-governance, as set forth in a compact and a funding agreement.

''(f) RECEIPT OF GRANT NOT REQUIRED.—Receipt of a grant under subsection (e) shall not be a requirement of participation in self-governance.

"SEC. 504. COMPACTS.

''(a) COMPACT REQUIRED.—The Secretary shall negotiate and enter into a written compact with each Indian tribe participating in self-governance in a manner consistent with the Federal Government's trust responsibility, treaty obligations, and the government-to-government relationship between Indian tribes and the United States.

''(b) CONTENTS.—Each compact required under subsection (a) shall set forth the general terms of the government-to-government relationship between the Indian tribe and the Secretary, including such terms as the parties intend shall control year after year. Such compacts may only be amended by mutual agreement of the parties.

''(c) EXISTING COMPACTS.—An Indian tribe participating in the Tribal Self-Governance Demonstration Project under title III on the date of enactment of this title shall have the option at any time thereafter to—

''(1) retain its Tribal Self-Governance Demonstration Project compact (in whole or in part) to the extent the provisions of such compact are not directly contrary to any express provision of this title, or

''(2) negotiate in lieu thereof (in whole or in part) a new compact in conformity with this title.

''(d) TERM AND EFFECTIVE DATE.—The effective date of a compact shall be the date of the approval and execution by the Indian tribe or another date agreed upon by the parties, and shall remain in effect for so long as permitted by Federal law or until terminated by mutual written agreement, retrocession, or reassumption.

"SEC. 505. FUNDING AGREEMENTS.

''(a) FUNDING AGREEMENT REQUIRED.—The Secretary shall negotiate and enter into a written funding agreement with each Indian tribe participating in self-governance in a manner consistent with the Federal Government's trust responsibility, treaty obligations, and the government-to-government relationship between Indian tribes and the United States.

''(b) CONTENTS.—Each funding agreement required under subsection (a) shall, as determined

by the Indian tribe, authorize the Indian tribe to plan, conduct, consolidate, administer, and receive full tribal share funding, including tribal shares of Indian Health Service competitive grants (excluding congressionally earmarked competitive grants), for all programs, services, functions, and activities (or portions thereof), that are carried out for the benefit of Indians because of their status as Indians without regard to the agency or office of the Indian Health Service within which the program, service, function, or activity (or portion thereof) is performed. Such programs, services, functions, or activities (or portions thereof) include all programs, services, functions, activities (or portions thereof) where Indian tribes or Indians are primary or significant beneficiaries, administered by the Department of Health and Human Services through the Indian Health Service and grants (which may be added to a funding agreement after award of such grants) and all local, field, service unit, area, regional, and central headquarters or national office functions administered under the authority of—

''(1) the Act of November 2, 1921 (25 U.S.C. 13);

''(2) the Act of April 16, 1934 (25 U.S.C. 452 et seq.);

''(3) the Act of August 5, 1954 (68 Stat. 674);

''(4) the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.);

''(5) the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.);

''(6) any other Act of Congress authorizing agencies of the Department of Health and Human Services to administer, carry out, or provide financial assistance to such programs, functions, or activities (or portions thereof) described in this section; or

''(7) any other Act of Congress authorizing such programs, functions, or activities (or portions thereof) under which appropriations are made to agencies other than agencies within the Department of Health and Human services when the Secretary administers such programs, functions, or activities (or portions thereof).

''(c) INCLUSION IN COMPACT OR FUNDING AGREEMENT.—Indian tribes or Indians need not be identified in the authorizing statute for a program or element of a program to be eligible for inclusion in a compact or funding agreement under this title.

''(d) FUNDING AGREEMENT TERMS.—Each funding agreement shall set forth terms that generally identify the programs, services, functions, and activities (or portions thereof) to be performed or administered, the general budget category assigned, the funds to be provided, including those to be provided on a recurring basis, the time and method of transfer of the funds, the responsibilities of the Secretary, and any other provisions to which the Indian tribe and the Secretary agree.

''(e) SUBSEQUENT FUNDING AGREEMENTS.—Absent notification from an Indian tribe that is withdrawing or retroceding the operation of one or more programs, services, functions, or activities (or portions thereof) identified in a funding agreement, or unless otherwise agreed to by the parties, each funding agreement shall remain in full force and effect until a subsequent funding agreement is executed, and the terms of the subsequent funding agreement shall be retroactive to the end of the term of the preceding funding agreement.

''(f) EXISTING FUNDING AGREEMENTS.—Each Indian tribe participating in the Tribal Self-Governance Demonstration Project established under title III on the date of enactment of this title shall have the option at any time thereafter to—

''(1) retain its Tribal Self-Governance Demonstration Project funding agreement (in whole or in part) to the extent the provisions of such funding agreement are not directly contrary to any express provision of this title; or

''(2) adopt in lieu thereof (in whole or in part) a new funding agreement in conformity with this title.

''(g) STABLE BASE FUNDING.—At the option of an Indian tribe, a funding agreement may provide for a stable base budget specifying the recurring funds (including, for purposes of this provision, funds available under section 106(a) of the Act) to be transferred to such Indian tribe, for such period as may be specified in the funding agreement, subject to annual adjustment only to reflect changes in congressional appropriations by sub-sub activity excluding earmarks.

''SEC. 506. GENERAL PROVISIONS.

''(a) APPLICABILITY.—The provisions of this section shall apply to compacts and funding agreements negotiated under this title and an Indian tribe may, at its option, include provisions that reflect such requirements in a compact or funding agreement.

''(b) CONFLICTS OF INTEREST.—Indian tribes participating in self-governance under this title shall ensure that internal measures are in place to address conflicts of interest in the administration of self-governance programs, services, functions, or activities (or portions thereof).

''(c) AUDITS.—

''(1) SINGLE AGENCY AUDIT ACT.—The provisions of chapter 75 of title 31, United States Code, requiring a single agency audit report shall apply to funding agreements under this title.

''(2) COST PRINCIPLES.—An Indian tribe shall apply cost principles under the applicable Office of Management and Budget Circular, except as modified by section 106 or other provisions of law, or by any exemptions to applicable Office of Management and Budget Circulars subsequently granted by Office of Management and Budget. No other audit or accounting standards shall be required by the Secretary. Any claim by the Federal Government against the Indian tribe relating to funds received under a funding agreement based on any audit under this subsection shall be subject to the provisions of section 106(f).

''(d) RECORDS.—

''(1) IN GENERAL.—Unless an Indian tribe specifies otherwise in the compact or funding agreement, records of the Indian tribe shall not be considered Federal records for purposes of chapter 5 of title 5, United States Code.

''(2) RECORDKEEPING SYSTEM.—The Indian tribe shall maintain a recordkeeping system, and, after 30 days advance notice, provide the Secretary with reasonable access to such records to enable the Department of Health and Human Services to meet its minimum legal recordkeeping system requirements under sections 3101 through 3106 of title 44, United States Code.

''(e) REDESIGN AND CONSOLIDATION.—An Indian tribe may redesign or consolidate programs, services, functions, and activities (or portions thereof) included in a funding agreement under section 505 and reallocate or redirect funds for such programs, services, functions, and activities (or portions thereof) in any manner which the Indian tribe deems to be in the best interest of the health and welfare of the Indian community being served, only if the redesign or consolidation does not have the effect of denying eligibility for services to population groups otherwise eligible to be served under Federal law.

''(f) RETROCESSION.—An Indian tribe may retrocede, fully or partially, to the Secretary programs, services, functions, or activities (or portions thereof) included in the compact or funding agreement. Unless the Indian tribe rescinds the request for retrocession, such retrocession will become effective within the time frame specified by the parties in the compact or funding agreement. In the absence of such a specification, such retrocession shall become effective on—

''(1) the earlier of—

''(A) one year from the date of submission of such request; or

''(B) the date on which the funding agreement expires; or

''(2) such date as may be mutually agreed by the Secretary and the Indian tribe.

''(g) WITHDRAWAL.—

''(1) PROCESS.—An Indian tribe may fully or partially withdraw from a participating inter-tribal consortium or tribal organization its share of any program, function, service, or activity (or portions thereof) included in a compact or funding agreement. Such withdrawal shall become effective within the time frame specified in the resolution which authorizes transfer to the participating tribal organization or inter-tribal consortium. In the absence of a specific time frame set forth in the resolution, such withdrawal shall become effective on—

''(A) the earlier of—

''(i) one year from the date of submission of such request; or

''(ii) the date on which the funding agreement expires; or

''(B) such date as may be mutually agreed upon by the Secretary, the withdrawing Indian tribe, and the participating tribal organization or inter-tribal consortium that has signed the compact or funding agreement on behalf of the withdrawing Indian tribe, inter-tribal consortium, or tribal organization.

''(2) DISTRIBUTION OF FUNDS.—When an Indian tribe or tribal organization eligible to enter into a self-determination contract under title I or a compact or funding agreement under this title fully or partially withdraws from a participating inter-tribal consortium or tribal organization, the withdrawing Indian tribe or tribal organization shall be entitled to its tribal share of funds supporting those programs, services, functions, or activities (or portions thereof) which it will be carrying out under its own self-determination contract or compact and funding agreement (calculated on the same basis as the funds were initially allocated in the funding agreement of the inter-tribal consortium or tribal organization), and such funds shall be transferred from the funding agreement of the inter-tribal consortium or tribal organization, provided that the provisions of sections 102 and 105(i), as appropriate, shall apply to such withdrawing Indian tribe.

''(3) REGAINING MATURE CONTRACT STATUS.—If an Indian tribe elects to operate all or some programs, services, functions, or activities (or portions thereof) carried out under a compact or funding agreement under this title through a self-determination contract under title I, at the option of the Indian tribe, the resulting self-determination contract shall be a mature self-determination contract.

''(h) NONDUPLICATION.—For the period for which, and to the extent to which, funding is provided under this title or under the compact or funding agreement, the Indian tribe shall not be entitled to contract with the Secretary for such funds under section 102, except that such Indian tribe shall be eligible for new programs on the same basis as other Indian tribes.

''SEC. 507. PROVISIONS RELATING TO THE SECRETARY.

''(a) MANDATORY PROVISIONS.—

''(1) HEALTH STATUS REPORTS.—Compacts or funding agreements negotiated between the Secretary and an Indian tribe shall include a provision that requires the Indian tribe to report on health status and service delivery—

''(A) to the extent such data is not otherwise available to the Secretary and specific funds for this purpose are provided by the Secretary under the funding agreement; and

''(B) if such reporting shall impose minimal burdens on the participating Indian tribe and such requirements are promulgated under section 517.

''(2) REASSUMPTION—(A) Compacts and funding agreements negotiated between the Secretary and an Indian tribe shall include a provision authorizing the Secretary to reassume operation of a program, service, function, or activity (or portions thereof) and associated funding if there is a specific finding relative to that program,

service, function, or activity (or portion thereof) of—

''(i) imminent endangerment of the public health caused by an act or omission of the Indian tribe, and the imminent endangerment arises out of a failure to carry out the compact or funding agreement; or

''(ii) gross mismanagement with respect to funds transferred to a tribe by a compact or funding agreement, as determined by the Secretary in consultation with the Inspector General, as appropriate.

''(B) The Secretary shall not reassume operation of a program, service, function, or activity (or portions thereof) unless (i) the Secretary has first provided written notice and a hearing on the record to the Indian tribe; and (ii) the Indian tribe has not taken corrective action to remedy the imminent endangerment to public health or gross mismanagement.

''(C) Notwithstanding subparagraph (B), the Secretary may, upon written notification to the tribe, immediately reassume operation of a program, service, function, or activity (or portion thereof) and associated funding if (i) the Secretary makes a finding of imminent substantial and irreparable endangerment of the public health caused by an act or omission of the Indian tribe; and (ii) the endangerment arises out of a failure to carry out the compact or funding agreement. If the Secretary reassumes operation of a program, service, function, or activity (or portion thereof) under this subparagraph, the Secretary shall provide the tribe with a hearing on the record not later than 10 days after such reassumption.

''(D) In any hearing or appeal involving a decision to reassume operation of a program, service, function, or activity (or portion thereof), the Secretary shall have the burden of proof of demonstrating by clear and convincing evidence the validity of the grounds for the reassumption.

''(b) FINAL OFFER.—In the event the Secretary and a participating Indian tribe are unable to agree, in whole or in part, on the terms of a compact or funding agreement (including funding levels), the Indian tribe may submit a final offer to the Secretary. Not more than 45 days after such submission, or within a longer time agreed upon by the Indian tribe, the Secretary shall review and make a determination with respect to such offer. In the absence of a timely rejection of the offer, in whole or in part, made in compliance with subsection (c), the offer shall be deemed agreed to by the Secretary.

''(c) REJECTION OF FINAL OFFERS.—If the Secretary rejects an offer made under subsection (b) (or one or more provisions or funding levels in such offer), the Secretary shall provide—

''(1) a timely written notification to the Indian tribe that contains a specific finding that clearly demonstrates, or that is supported by a controlling legal authority, that—

''(A) the amount of funds proposed in the final offer exceeds the applicable funding level to which the Indian tribe is entitled under this title;

''(B) the program, function, service, or activity (or portion thereof) that is the subject of the final offer is an inherent Federal function that cannot legally be delegated to an Indian tribe;

''(C) the Indian tribe cannot carry out the program, function, service, or activity (or portion thereof) in a manner that would not result in significant danger or risk to the public health; or

''(D) the tribe is not eligible to participate in self-governance under section 503;

''(2) technical assistance to overcome the objections stated in the notification required by paragraph (1);

''(3) the Indian tribe with a hearing on the record with the right to engage in full discovery relevant to any issue raised in the matter and the opportunity for appeal on the objections raised, provided that the Indian tribe may, in lieu of filing such appeal, directly proceed to initiate an action in a Federal district court pursuant to section 110(a); and

''(4) the Indian tribe with the option of entering into the severable portions of a final proposed compact or funding agreement, or provision thereof, (including lesser funding amount, if any), that the Secretary did not reject, subject to any additional alterations necessary to conform the compact or funding agreement to the severed provisions. If an Indian tribe exercises the option specified herein, it shall retain the right to appeal the Secretary's rejection under this section, and paragraphs (1), (2), and (3) shall only apply to that portion of the proposed final compact, funding agreement or provision thereof that was rejected by the Secretary.

''(d) BURDEN OF PROOF.—With respect to any hearing or appeal or civil action conducted pursuant to this section, the Secretary shall have the burden of demonstrating by clear and convincing evidence the validity of the grounds for rejecting the offer (or a provision thereof) made under subsection (b).

''(e) GOOD FAITH.—In the negotiation of compacts and funding agreements the Secretary shall at all times negotiate in good faith to maximize implementation of the self-governance policy. The Secretary shall carry out this title in a manner that maximizes the policy of tribal self-governance, consistent with section 3.

''(f) SAVINGS.—To the extent that programs, functions, services, or activities (or portions thereof) carried out by Indian tribes under this title reduce the administrative or other responsibilities of the Secretary with respect to the operation of Indian programs and result in savings that have not otherwise been included in the amount of tribal shares and other funds determined under section 508(c), the Secretary shall make such savings available to the Indian tribes, inter-tribal consortia, or tribal organizations for the provision of additional services to program beneficiaries in a manner equitable to directly served, contracted, and compacted programs.

''(g) TRUST RESPONSIBILITY.—The Secretary is prohibited from waiving, modifying, or diminishing in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians that exists under treaties, Executive orders, other laws, or court decisions.

''(h) DECISIONMAKER.—A decision that constitutes final agency action and relates to an appeal within the Department of Health and Human Services conducted under subsection (c) shall be made either—

''(1) by an official of the Department who holds a position at a higher organizational level within the Department than the level of the departmental agency in which the decision that is the subject of the appeal was made; or

''(2) by an administrative judge.

''SEC. 508. TRANSFER OF FUNDS.

''(a) IN GENERAL.—Pursuant to the terms of any compact or funding agreement entered into under this title, the Secretary shall transfer to the Indian tribe all funds provided for in the funding agreement, pursuant to subsection (c), and provide funding for periods covered by joint resolution adopted by Congress making continuing appropriations, to the extent permitted by such resolutions. In any instance where a funding agreement requires an annual transfer of funding to be made at the beginning of a fiscal year, or requires semiannual or other periodic transfers of funding to be made commencing at the beginning of a fiscal year, the first such transfer shall be made not later than 10 days after the apportionment of such funds by the Office of Management and Budget to the Department, unless the funding agreement provides otherwise.

''(b) MULTIYEAR FUNDING.—The Secretary is hereby authorized to employ, upon tribal request, multiyear funding agreements, and references in this title to funding agreements shall include such multiyear agreements.

''(c) AMOUNT OF FUNDING.—The Secretary shall provide funds under a funding agreement under this title in an amount equal to the amount that the Indian tribe would have been entitled to receive under self-determination contracts under this Act, including amounts for direct program costs specified under section 106(a)(1) and amounts for contract support costs specified under sections 106(a)(2), (a)(3), (a)(5), and (a)(6), including any funds that are specifically or functionally related to the provision by the Secretary of services and benefits to the Indian tribe or its members, all without regard to the organizational level within the Department where such functions are carried out.

''(d) PROHIBITIONS.—The Secretary is expressly prohibited from—

''(1) failing or refusing to transfer to an Indian tribe its full share of any central, headquarters, regional, area, or service unit office or other funds due under this Act, except as required by Federal law;

''(2) withholding portions of such funds for transfer over a period of years; and

''(3) reducing the amount of funds required herein—

''(A) to make funding available for self-governance monitoring or administration by the Secretary;

''(B) in subsequent years, except pursuant to—

''(i) a reduction in appropriations from the previous fiscal year for the program or function to be included in a compact or funding agreement;

''(ii) a congressional directive in legislation or accompanying report;

''(iii) a tribal authorization;

''(iv) a change in the amount of pass-through funds subject to the terms of the funding agreement; or

''(v) completion of a project, activity, or program for which such funds were provided;

''(C) to pay for Federal functions, including Federal pay costs, Federal employee retirement benefits, automated data processing, technical assistance, and monitoring of activities under this Act; or

''(D) to pay for costs of Federal personnel displaced by self-determination contracts under this Act or self-governance;

except that such funds may be increased by the Secretary if necessary to carry out this Act or as provided in section 105(c)(2).

''(e) OTHER RESOURCES.—In the event an Indian tribe elects to carry out a compact or funding agreement with the use of Federal personnel, Federal supplies (including supplies available from Federal warehouse facilities), Federal supply sources (including lodging, airline transportation, and other means of transportation including the use of interagency motor pool vehicles) or other Federal resources (including supplies, services, and resources available to the Secretary under any procurement contracts in which the Department is eligible to participate), the Secretary is authorized to transfer such personnel, supplies, or resources to the Indian tribe.

''(f) REIMBURSEMENT TO INDIAN HEALTH SERVICE.—With respect to functions transferred by the Indian Health Service to an Indian tribe, the Indian Health Service is authorized to provide goods and services to the Indian tribe, on a reimbursable basis, including payment in advance with subsequent adjustment, and the reimbursements received therefrom, along with the funds received from the Indian tribe pursuant to this title, may be credited to the same or subsequent appropriation account which provided the funding, such amounts to remain available until expended.

''(g) PROMPT PAYMENT ACT.—Chapter 39 of title 31, United States Code, shall apply to the transfer of funds due under a compact or funding agreement authorized under this title.

''(h) INTEREST OR OTHER INCOME ON TRANSFERS.—An Indian tribe is entitled to retain interest earned on any funds paid under a compact or funding agreement to carry out governmental or health purposes and such interest

shall not diminish the amount of funds the Indian tribe is authorized to receive under its funding agreement in the year the interest is earned or in any subsequent fiscal year. Funds transferred under this Act shall be managed using the prudent investment standard.

''(i) CARRYOVER OF FUNDS.—All funds paid to an Indian tribe in accordance with a compact or funding agreement shall remain available until expended. In the event that an Indian tribe elects to carry over funding from one year to the next, such carryover shall not diminish the amount of funds the Indian tribe is authorized to receive under its funding agreement in that or any subsequent fiscal year.

''(j) PROGRAM INCOME.—All medicare, medicaid, or other program income earned by an Indian tribe shall be treated as supplemental funding to that negotiated in the funding agreement and the Indian tribe may retain all such income and expend such funds in the current year or in future years except to the extent that the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) provides otherwise for medicare and medicaid receipts, and such funds shall not result in any offset or reduction in the amount of funds the Indian tribe is authorized to receive under its funding agreement in the year the program income is received or for any subsequent fiscal year.

''(k) LIMITATION OF COSTS.—An Indian tribe shall not be obligated to continue performance that requires an expenditure of funds in excess of the amount of funds transferred under a compact or funding agreement. If at any time the Indian tribe has reason to believe that the total amount provided for a specific activity in the compact or funding agreement is insufficient the Indian tribe shall provide reasonable notice of such insufficiency to the Secretary. If the Secretary does not increase the amount of funds transferred under the funding agreement, the Indian tribe may suspend performance of the activity until such time as additional funds are transferred.

''SEC. 509. CONSTRUCTION PROJECTS.

''(a) IN GENERAL.—Indian tribes participating in tribal self-governance may carry out construction projects under this title if they elect to assume all Federal responsibilities under the National Environmental Policy Act of 1969, the Historic Preservation Act, and related provisions of law that would apply if the Secretary were to undertake a construction project, by adopting a resolution (1) designating a certifying officer to represent the Indian tribe and to assume the status of a responsible Federal official under such laws, and (2) accepting the jurisdiction of the Federal court for the purpose of enforcement of the responsibilities of the responsible Federal official under such environmental laws.

''(b) NEGOTIATIONS.—Construction project proposals shall be negotiated pursuant to the statutory process in section 105(m) and resulting construction project agreements shall be incorporated into funding agreements as addenda.

''(c) CODES AND STANDARDS.—The Indian tribe and the Secretary shall agree upon and specify appropriate buildings codes and architectural/engineering standards (including health and safety) which shall be in conformity with nationally recognized standards for comparable projects.

''(d) RESPONSIBILITY FOR COMPLETION.—The Indian tribe shall assume responsibility for the successful completion of the construction project in accordance with the negotiated construction project agreement.

''(e) FUNDING.—Funding for construction projects carried out under this title shall be included in funding agreements as annual advance payments, with semiannual payments at the option of the Indian tribe. Annual advance and semiannual payment amounts shall be determined based on mutually agreeable project schedules reflecting work to be accomplished within the advance payment period, work accomplished and funds expended in previous payment periods, and the total prior payments. The Secretary shall include associated project contingency funds with each advance payment installment. The Indian tribe shall be responsible for the management of the contingency funds included in funding agreements.

''(f) APPROVAL.—The Secretary shall have at least one opportunity to approve project planning and design documents prepared by the Indian tribe in advance of construction of the facilities specified in the scope of work for each negotiated construction project agreement or amendment thereof which results in a significant change in the original scope of work. The Indian tribe shall provide the Secretary with project progress and financial reports not less than semiannually. The Secretary may conduct on-site project oversight visits semiannually or on an alternate schedule agreed to by the Secretary and the Indian tribe.

''(g) WAGES.—All laborers and mechanics employed by contractors and subcontractors in the construction, alteration, or repair, including painting or decorating of building or other facilities in connection with construction projects undertaken by self-governance Indian tribes under this Act, shall be paid wages at not less than those prevailing wages on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act of March 3, 1931 (46 Stat. 1494). With respect to construction, alteration, or repair work to which the Act of March 3, 1921, is applicable under the terms of this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14, of 1950, and section 2 of the Act of June 13, 1934 (48 Stat. 948).

''(h) APPLICATION OF OTHER LAWS.—Unless otherwise agreed to by the Indian tribe, no provision of the Office of Federal Procurement Policy Act, the Federal Acquisition Regulations issued pursuant thereto, or any other law or regulation pertaining to Federal procurement (including Executive orders) shall apply to any construction project conducted under this title.

''SEC. 510. FEDERAL PROCUREMENT LAWS AND REGULATIONS.

''Notwithstanding any other provision of law, unless expressly agreed to by the participating Indian tribe, the compacts and funding agreements entered into under this title shall not be subject to Federal contracting or cooperative agreement laws and regulations (including Executive orders and the regulations relating to procurement issued by the Secretary), except to the extent that such laws expressly apply to Indian tribes.

''SEC. 511. CIVIL ACTIONS.

''(a) CONTRACT DEFINED.—For the purposes of section 110, the term 'contract' shall include compacts and funding agreements entered into under this title.

''(b) APPLICABILITY OF CERTAIN LAWS.—Section 2103 of the Revised Statutes of the United States Code (25 U.S.C. 81) and section 16 of the Act of June 18, 1934 (25 U.S.C. 476), shall not apply to attorney and other professional contracts entered into by Indian tribes participating in self-governance under this title.

''(c) REFERENCES.—All references in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) to section 1 of the Act of June 26, 1936 (25 U.S.C. 81) are hereby deemed to include section 1 of the Act of July 3, 1952 (25 U.S.C. 82a).

''SEC. 512. FACILITATION.

''(a) SECRETARIAL INTERPRETATION.—Except as otherwise provided by law, the Secretary shall interpret all Federal laws, Executive orders and regulations in a manner that will facilitate—

''(1) the inclusion of programs, services, functions, and activities (or portions thereof) and funds associated therewith, in the agreements entered into under this section;

''(2) the implementation of compacts and funding agreements entered into under this title; and

''(3) the achievement of tribal health goals and objectives.

''(b) REGULATION WAIVER.—

''(1) An Indian tribe may submit a written request to waive application of a regulation promulgated under this Act for a compact or funding agreement entered into with the Indian Health Service under this title, to the Secretary identifying the applicable Federal regulation under this Act sought to be waived and the basis for the request.

''(2) Not later than 90 days after receipt by the Secretary of a written request by an Indian tribe to waive application of a regulation under this Act for a compact or funding agreement entered into under this title, the Secretary shall either approve or deny the requested waiver in writing. A denial may be made only upon a specific finding by the Secretary that identified language in the regulation may not be waived because such waiver is prohibited by Federal law. A failure to approve or deny a waiver request not later than 90 days after receipt shall be deemed an approval of such request. The Secretary's decision shall be final for the Department.

''(c) ACCESS TO FEDERAL PROPERTY.—In connection with any compact or funding agreement executed pursuant to this title or an agreement negotiated under the Tribal Self-Governance Demonstration Project established under title III, as in effect before the enactment of the Tribal Self-Governance Amendments of 1999, upon the request of an Indian tribe, the Secretary—

''(1) shall permit an Indian tribe to use existing school buildings, hospitals, and other facilities and all equipment therein or appertaining thereto and other personal property owned by the Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon by the Secretary and the tribe for their use and maintenance;

''(2) may donate to an Indian tribe title to any personal or real property found to be excess to the needs of any agency of the Department, or the General Services Administration, except that—

''(A) subject to the provisions of subparagraph (B), title to property and equipment furnished by the Federal Government for use in the performance of the compact or funding agreement or purchased with funds under any compact or funding agreement shall, unless otherwise requested by the Indian tribe, vest in the appropriate Indian tribe;

''(B) if property described in subparagraph (A) has a value in excess of $5,000 at the time of retrocession, withdrawal, or reassumption, at the option of the Secretary upon the retrocession, withdrawal, or reassumption, title to such property and equipment shall revert to the Department of Health and Human Services; and

''(C) all property referred to in subparagraph (A) shall remain eligible for replacement, maintenance, and improvement on the same basis as if title to such property were vested in the United States; and

''(3) shall acquire excess or surplus Government personal or real property for donation to an Indian tribe if the Secretary determines the property is appropriate for use by the Indian tribe for any purpose for which a compact or funding agreement is authorized under this title.

''(d) MATCHING OR COST-PARTICIPATION REQUIREMENT.—All funds provided under compacts, funding agreements, or grants made pursuant to this Act, shall be treated as non-Federal funds for purposes of meeting matching or cost participation requirements under any other Federal or non-Federal program.

''(e) STATE FACILITATION.—States are hereby authorized and encouraged to enact legislation, and to enter into agreements with Indian tribes to facilitate and supplement the initiatives, programs, and policies authorized by this title and

other Federal laws benefiting Indians and Indian tribes.

''(f) RULES OF CONSTRUCTION.—Each provision of this title and each provision of a compact or funding agreement shall be liberally construed for the benefit of the Indian tribe participating in self-governance and any ambiguity shall be resolved in favor of the Indian tribe.

''SEC. 513. BUDGET REQUEST.

''(a) IN GENERAL.—The President shall identify in the annual budget request submitted to the Congress under section 1105 of title 31, United States Code, all funds necessary to fully fund all funding agreements authorized under this title, including funds specifically identified to fund tribal base budgets. All funds so appropriated shall be apportioned to the Indian Health Service. Such funds shall be provided to the Office of Tribal Self-Governance which shall be responsible for distribution of all funds provided under section 505. Nothing in this provision shall be construed to authorize the Indian Health Service to reduce the amount of funds that a self-governance tribe is otherwise entitled to receive under its funding agreement or other applicable law, whether or not such funds are made available to the Office of Tribal Self-Governance under this section.

''(b) PRESENT FUNDING; SHORTFALLS.—In such budget request, the President shall identify the level of need presently funded and any shortfall in funding (including direct program and contract support costs) for each Indian tribe, either directly by the Secretary, under self-determination contracts, or under compacts and funding agreements authorized under this title.

''SEC. 514. REPORTS.

''(a) ANNUAL REPORT.—Not later than January 1 of each year after the date of the enactment of this title, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs of the Senate a written report regarding the administration of this title. Such report shall include a detailed analysis of the level of need being presently funded or unfunded for each Indian tribe, either directly by the Secretary, under self-determination contracts under title I, or under compacts and funding agreements authorized under this Act. In compiling reports pursuant to this section, the Secretary may not impose any reporting requirements on participating Indian tribes or tribal organizations, not otherwise provided in this Act.

''(b) CONTENTS.—The report shall be compiled from information contained in funding agreements, annual audit reports, and Secretarial data regarding the disposition of Federal funds and shall—

''(1) identify the relative costs and benefits of self-governance;

''(2) identify, with particularity, all funds that are specifically or functionally related to the provision by the Secretary of services and benefits to self-governance Indian tribes and their members;

''(3) identify the funds transferred to each self-governance Indian tribe and the corresponding reduction in the Federal bureaucracy;

''(4) identify the funding formula for individual tribal shares of all headquarters funds, together with the comments of affected Indian tribes or tribal organizations, developed under subsection (c);

''(5) identify amounts expended in the preceding fiscal year to carry out inherent Federal functions, including an identification of those functions by type and location;

''(6) contain a description of the method or methods (or any revisions thereof) used to determine the individual tribal share of funds controlled by all components of the Indian Health Service (including funds assessed by any other Federal agency) for inclusion in self-governance compacts or funding agreements;

''(7) prior to being submitted to Congress, be distributed to the Indian tribes for comment, such comment period to be for no less than 30 days; and

''(8) include the separate views and comments of the Indian tribes or tribal organizations.

''(c) REPORT ON FUND DISTRIBUTION METHOD.—Not later than 180 days after the date of enactment of this title, the Secretary shall, after consultation with Indian tribes, submit a written report to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs of the Senate which describes the method or methods used to determine the individual tribal share of funds controlled by all components of the Indian Health Service (including funds assessed by any other Federal agency) for inclusion in self-governance compacts or funding agreements.

''SEC. 515. DISCLAIMERS.

''(a) NO FUNDING REDUCTION.—Nothing in this title shall be construed to limit or reduce in any way the funding for any program, project, or activity serving an Indian tribe under this or other applicable Federal law. Any Indian tribe that alleges that a compact or funding agreement is in violation of this section may apply the provisions of section 110.

''(b) FEDERAL TRUST AND TREATY RESPONSIBILITIES.—Nothing in this Act shall be construed to diminish in any way the trust responsibility of the United States to Indian tribes and individual Indians that exists under treaties, Executive orders, or other laws and court decisions.

''(c) TRIBAL EMPLOYMENT.—For purposes of section 2(2) of the Act of July 5, 1935 (49 Stat. 450, chapter 372) (commonly known as the National Labor Relations Act), an Indian tribe carrying out a self-determination contract, compact, annual funding agreement, grant, or cooperative agreement under this Act shall not be considered an employer.

''(d) OBLIGATIONS OF THE UNITED STATES.—The Indian Health Service under this Act shall neither bill nor charge those Indians who may have the economic means to pay for services, nor require any Indian tribe to do so.

''SEC. 516. APPLICATION OF OTHER SECTIONS OF THE ACT.

''(a) MANDATORY APPLICATION.—All provisions of sections 5(b), 6, 7, 102(c) and (d), 104, 105(k) and (l), 106(a) through (k), and 111 of this Act and section 314 of Public Law 101–512 (coverage under the Federal Tort Claims Act), to the extent not in conflict with this title, shall apply to compacts and funding agreements authorized by this title.

''(b) DISCRETIONARY APPLICATION.—At the request of a participating Indian tribe, any other provision of title I, to the extent such provision is not in conflict with this title, shall be made a part of a funding agreement or compact entered into under this title. The Secretary is obligated to include such provision at the option of the participating Indian tribe or tribes. If such provision is incorporated it shall have the same force and effect as if it were set out in full in this title. In the event an Indian tribe requests such incorporation at the negotiation stage of a compact or funding agreement, such incorporation shall be deemed effective immediately and shall control the negotiation and resulting compact and funding agreement.

''SEC. 517. REGULATIONS.

''(a) IN GENERAL.—

''(1) Not later than 90 days after the date of enactment of this title, the Secretary shall initiate procedures under subchapter III of chapter 5 of title 5, United States Code, to negotiate and promulgate such regulations as are necessary to carry out this title.

''(2) Proposed regulations to implement this title shall be published in the Federal Register by the Secretary no later than 1 year after the date of enactment of this title.

''(3) The authority to promulgate regulations under this title shall expire 21 months after the date of enactment of this title.

''(b) COMMITTEE.—A negotiated rulemaking committee established pursuant to section 565 of title 5, United States Code, to carry out this section shall have as its members only Federal and tribal government representatives, a majority of whom shall be nominated by and be representatives of Indian tribes with funding agreements under this Act, and the Committee shall confer with, and accommodate participation by, representatives of Indian tribes, inter-tribal consortia, tribal organizations, and individual tribal members.

''(c) ADAPTATION OF PROCEDURES.—The Secretary shall adapt the negotiated rulemaking procedures to the unique context of self-governance and the government-to-government relationship between the United States and Indian tribes.

''(d) EFFECT.—The lack of promulgated regulations shall not limit the effect of this title.

''(e) EFFECT OF CIRCULARS, POLICIES, MANUALS, GUIDANCES, AND RULES.—Unless expressly agreed to by the participating Indian tribe in the compact or funding agreement, the participating Indian tribe shall not be subject to any agency circular, policy, manual, guidance, or rule adopted by the Indian Health Service, except for the eligibility provisions of section 105(g).

''SEC. 518. APPEALS.

''In any appeal (including civil actions) involving decisions made by the Secretary under this title, the Secretary shall have the burden of proof of demonstrating by clear and convincing evidence—

''(1) the validity of the grounds for the decision made; and

''(2) the decision is fully consistent with provisions and policies of this title.

''SEC. 519. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated such sums as may be necessary to carry out this title.

''TITLE VI—TRIBAL SELF-GOVERNANCE—DEPARTMENT OF HEALTH AND HUMAN SERVICES

''SEC. 601. DEMONSTRATION PROJECT FEASIBILITY.

''(a) STUDY.—The Secretary shall conduct a study to determine the feasibility a Tribal Self-Governance Demonstration Project for appropriate programs, services, functions, and activities (or portions thereof) of the agency.

''(b) CONSIDERATIONS.—When conducting the study, the Secretary shall consider—

''(1) the probable effects on specific programs and program beneficiaries of such a demonstration project;

''(2) statutory, regulatory, or other impediments to implementation of such a demonstration project;

''(3) strategies for implementing such a demonstration project;

''(4) probable costs or savings associated with such a demonstration project;

''(5) methods to assure quality and accountability in such a demonstration project; and

''(6) such other issues that may be determined by the Secretary or developed through consultation pursuant to section 602.

''(c) REPORT.—Not later than 18 months after the enactment of this title, the Secretary shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Indian Affairs of the Senate. The report shall contain—

''(1) the results of the study;

''(2) a list of programs, services, functions, and activities (or portions thereof) within the agency which it would be feasible to include in a Tribal Self-Governance Demonstration Project;

''(3) a list of programs, services, functions, and activities (or portions thereof) included in the list provided pursuant to paragraph (2) which could be included in a Tribal Self-Governance Demonstration Project without amending statutes, or waiving regulations that the Secretary may not waive;

''(4) a list of legislative actions required in order to include those programs, services, functions, and activities (or portions thereof) included in the list provided pursuant to paragraph (2) but not included in the list provided pursuant to paragraph (3) in a Tribal Self-Governance Demonstration Project; and

''(5) any separate views of tribes and other entities consulted pursuant to section 602 related to the information provided pursuant to paragraph (1) through (4).

''SEC. 602. CONSULTATION.

''(a) STUDY PROTOCOL.—

''(1) CONSULTATION WITH INDIAN TRIBES.—The Secretary shall consult with Indian tribes to determine a protocol for consultation under subsection (b) prior to consultation under such subsection with the other entities described in such subsection. The protocol shall require, at a minimum, that—

''(A) the government-to-government relationship with Indian tribes forms the basis for the consultation process;

''(B) the Indian tribes and the Secretary jointly conduct the consultations required by this section; and

''(C) the consultation process allow for separate and direct recommendations from the Indian tribes and other entities described in subsection (b).

''(2) OPPORTUNITY FOR PUBLIC COMMENT.—In determining the protocol described in paragraph (1), the Secretary shall publish the proposed protocol and allow a period of not less than 30 days for comment by entities described in subsection (b) and other interested individuals, and shall take comments received into account in determining the final protocol.

''(b) CONDUCTING STUDY.—In conducting the study under this title, the Secretary shall consult with Indian tribes, States, counties, municipalities, program beneficiaries, and interested public interest groups, and may consult with other entities as appropriate.

''SEC. 603. DEFINITIONS.

''(a) IN GENERAL.—For purposes of this title, the Secretary may use definitions provided in title V.

''(b) AGENCY.—For purposes of this title, the term 'agency' shall mean any agency or other organizational unit of the Department of Health and Human Services, other than the Indian Health Service.

''SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated for fiscal years 2000 and 2001 such sums as may be necessary to carry out this title. Such sums shall remain available until expended.''.

SEC. 5. AMENDMENTS CLARIFYING CIVIL PROCEEDINGS.

(a) BURDEN OF PROOF IN DISTRICT COURT ACTIONS.—Section 102(e)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f(e)(1)) is amended by inserting after ''subsection (b)(3)'' the following: ''or any civil action conducted pursuant to section 110(a)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any proceedings commenced after October 25, 1994.

SEC. 6. SPEEDY ACQUISITION OF GOODS, SERVICES, OR SUPPLIES.

Section 105(k) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j(k)) is amended—

(1) by striking ''carrying out a contract'' and all that follows through ''shall be eligible'' and inserting the following: ''or Indian tribe shall be deemed an executive agency and a part of the Indian Health Service, and the employees of the tribal organization or the Indian tribe, as the case may be, shall be eligible''; and

(2) by adding at the end thereof the following: ''At the request of an Indian tribe, the Secretary shall enter into an agreement for the acquisition, on behalf of the Indian tribe, of any goods, services, or supplies available to the Secretary from the General Services Administration or other Federal agencies that are not directly available to the Indian tribe under this section or any other Federal law, including acquisitions from prime vendors. All such acquisitions shall be undertaken through the most efficient and speedy means practicable, including electronic ordering arrangements.

SEC. 7. PATIENT RECORDS.

Section 105 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450j) is amended by adding at the end the following new subsection:

''(o) At the option of a tribe or tribal organization, patient records may be deemed to be Federal records under the Federal Records Act of 1950 for the limited purposes of making such records eligible for storage by Federal Records Centers to the same extent and in the same manner as other Department of Health and Human Services patient records. Patient records that are deemed to be Federal records under the Federal Records Act of 1950 pursuant to this subsection shall not be considered Federal records for the purposes of chapter 5 of title 5, United States Code.''.

SEC. 8. REPEAL.

Title III of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f note) is hereby repealed.

SEC. 9. SAVINGS PROVISION.

Funds appropriated for title III of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f note) shall be available for use under title V of such Act.

SEC. 10. EFFECTIVE DATE.

Except as otherwise provided, the provisions of this Act shall take effect on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from Utah (Mr. HANSEN).

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

Mr. Speaker, H.R. 1167, the proposed Tribal Self-Governance Amendments Act of 1999, would create a new title in the 1975 Indian Self-Determination Act.

The 1975 act allows Indian tribes to contract for or take over the administration and operation of certain Federal programs which provide services to Indian tribes. Subsequent amendments to the 1975 act created in Title III of the act, which provided for a Self-Governance Demonstration Project that allows for a large-scale tribal self-governance compacts and funding agreements on a demonstration basis.

The new title created by H.R. 1167 would make this contracting by tribes permanent for programs contracted for within the Indian Health Service. Thereby, Indian and Alaskan Native tribes would be able to contract for the operation, control, and redesign of various IHS services on a permanent basis. In short, what was a demonstration project would become a permanent IHS self-governance program.

Pursuant to H.R. 1167, tribes which have already contracted for IHS services would continue under the provisions of their contracts while an additional 50 new tribes would be selected each year to enter into contracts.

H.R. 1167 also allows for a feasibility study regarding the execution of tribal self-governance compacts and funding agreements of Indian-related programs outside the IHS but within the Department of Health and Human Services on a demonstration project basis.

H.R. 1167 is an important piece of legislation which is the result of years of negotiation between the Congress, the administration, and many Indian tribes around the Nation.

We passed this same legislation last year, but it was not acted upon before a judgment.

I support this legislation and urge my colleagues to pass it today so that the other body will again have the opportunity to pass it and send it to the President.

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

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the nature of self-governance is rooted in the inherent sovereignty of the American Indian and Alaska Native tribes. From the founding of this Nation, Indian tribes and Alaskan Native villages have been recognized as distinct, independent, political communities exercising powers of self-government, not by virtue of any delegation of powers from the Federal Government, but rather by virtue of their own innate sovereignty. The tribes' sovereignty predates the founding of the United States in its Constitution and forms the backdrop against which the United States has continually entered into relations with Indian tribes and native villages.

H.R. 1167 is modeled on the existing permanent self-governance legislation for the Interior Department programs contained in Title IV of the Indian Self-Determination and Education Assistance Act and reflects years of planning and negotiating among Indian tribes, the Alaska Native villages, and the Department of Health and Human Services.

This legislation continues the principle focus on self-governance programs to remove needless and sometimes harmful layers of Federal bureaucracy that dictate Indian affairs.

By giving tribes direct control over Federal programs run for their benefit and making them directly accountable to their members, Congress has enabled Indian tribes to run programs more efficiently and more innovatively than the Federal officials have in the past.

Allowing the tribes to run these programs furthers the congressional policy of strengthening and promoting tribal governments which began with passage of the First Self-Determination Act of 1975.

The Indian tribes and the administration agree that it is now time to take the next logical step toward the self-governance process and make self-governance programs permanent within the Department of Health and Human Services.

H.R. 1167 establishes a permanent self-government program within the

Department of Health and Human Services under which the American Indian and Alaska Native tribes may enter into compacts with the Secretary for direct operation control and redesign of Indian health service activities.

Tribes entering into self-governance programs have to meet four eligibility requirements. First, the tribe must, in the case of the consortium, be federally recognized. Second, the tribe must document with official action of the tribal governing body a formal request to enter into negotiations with the Department of Interior. Third, the tribe must demonstrate financial stability and financial management capabilities as evidenced through the administration of the prior 638 contracts. Fourth, the tribe must successfully have completed a planning phase requiring the submission of final planning report that demonstrates that the tribe has conducted legal and budgetary research in internal government and organizational planning.

If we are to adhere and remain faithful to the principles that our founders set forth, the principles of good faith, consent, justice, humanity, we must continue to promote tribal self-governance as done in this legislation that I bring before the House today.

I want to thank the gentleman from Alaska (Mr. YOUNG), the chairman of the Committee on Resources, for his assistance and support of this bill and urge all of my colleagues to support the passage of this legislation.

Mr. Speaker, the nature of Self-Governance is rooted in the inherent sovereignty of American Indian and Alaska Native tribes. From the founding of this nation, Indian tribes and Alaska Native villages have been recognized as ''distinct, independent, political communities'' exercising powers of self-government, not by virtue of any delegation of powers from the federal government, but rather by virtue of their own innate sovereignty. The tribes' sovereignty predates the founding of the United States and its Constitution and forms the backdrop against which the United States has continually entered into relations with Indian tribes and Native villages.

The present model of tribal Self-Governance arose out of the federal policy of Indian Self-Determination. The modern Self-Determination era began as Congress and contemporary Administrations ended the dubious experiment of Termination which was intended to end the federal trust responsibility to Native Americans during the 1950s.

The centerpiece of the Termination policy, House Concurrent Resolution 108 in 1953, stated that ''Indian tribes and individual members thereof, should be freed from Federal supervision and control and from all disabilities and limitations specially applicable to Indians.'' While the intent of this legislation was to free the Indians from federal rule, it also destroyed all protection and benefits received from the government. The same year, Congress enacted Public Law 28 which further eroded tribal sovereignty by transferring criminal jurisdiction from the federal government and the tribes to the various state governments.

As a policy, Termination was a disaster. Recognizing that Termination as a policy was a disaster, President Kennedy campaigned in 1960 promising the Indian tribes no changes in treaty or contractual relationships without tribal consent, protection of Indian lands base, and assistance with credit and tribal economic development.

Indeed, Indian reservations were included in many of the ''Great Society'' programs of the late 1960s, bringing a much-needed infusion of federal dollars onto many reservations. In 1968, President Lyndon B. Johnson delivered a message to Congress which stated support for:

> [A] policy of maximum choice for the American Indian: a policy expressed in programs of self-help, self-development, self-determination. . . . The greatest hope for Indian progress lies in the emergence of Indian leadership and initiative in solving Indian problems. Indians must have a voice in making the plans and decisions in programs which are important to their daily life.

In 1970, President Richard Nixon's ''Special Message on Indian Affairs'' also called for increased tribal self-determination as he stated:

> This, then, must be goal of any new national policy toward the Indian people: to strengthen the Indian's sense of autonomy without threatening his sense of community. We must assure the Indian that he can assume control of his own life without being separated involuntarily from the tribal group. And we must make it clear that Indians can become independent of Federal control without being cut off from Federal concern and Federal support. . .

Together, these messages sparked Congress to work on legislation that laid the foundation of modern federal Indian policy for the remainder of this century. And so, five years later, Congress enacted one of the most profound and powerful pieces of Indian legislation in this Nation's history.

In 1975, Congress passed the Indian Self-Determination and Education Assistance Act, Pub. L. 93–638. This legislation gave Indian tribes and Alaska Native villages the right to assume responsibility for the administration of federal programs which benefited Indians. In addition to assuming the authority to make operating and administrative decisions regarding the way these federal programs would be run, tribes that chose to enter into Indian Self-Determination Act contracts, which came to be known as ''638 contracts'' were given the right to receive the federal funds that the agencies—generally the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS)—would have ordinarily received for those programs. The Act did not, however, relieve the federal government of its trust responsibility to the tribes.

Congress enacted the Indian Self-Determination Act with the expectation that the direct responsibility for running these programs would enhance and strengthen tribal governments. As a means of supervise the tribes' activities, ''638'' contracts required volumes of paperwork to be filed. If a tribe wanted to operate more than one program, it would have to exercise an additional 638 contract which required a separate approval process. Though the Act was intended to decrease Federal involvement in the daily lives of reservation Indians, its specific performance and reporting requirements kept BIA as a pervasive force in Indian affairs.

At the time of its enactment, the 638 contract program did not allow tribes to move funds between programs to adapt to changing and unforeseen circumstances during a funding period. Thus, the tribes' powers to design or adapt programs according to tribal needs remained restricted.

The inflexibility of 638 contracts also created problems with cash flow. Payments were made to tribes on a cost-reimbursement basis, often many months after the tribe might have incurred major expenses. The tribes' main complaint, however, was that the 638 contract process made tribal staff primarily accountable to and measured by, not their own tribal councils but BIA employees at the Agency, Area and Central Officers. They had to follow strict federal laws, rules and regulations that were often of little relevance to day-to-day existence on an Indian reservation. Furthermore, if trust assets were involved, the BIA had to concur in all decisions made.

Thus, while the Indian Self-Determination Act was and is still acknowledged as a watershed moment in the history of tribal self-governance, by the mid-1980s many tribal leaders agreed that it was time for even greater change. They felt that the federal bureaucracy devoted to 638 program oversight had simply grown out of control and the percentage of federal dollars allocated for Indian programs actually spent on the reservations was still far too small.

To address these concerns, the Indian tribes asked Congress to consider amendments to the Self-Determination Act. At the same time, a group of tribal representatives began meeting to discuss proposals for trimming the BIA bureaucracy and amending the Act as well.

But during the fall of 1987, a series of articles appeared in the Arizona Republic entitled Fraud in Indian Country, that detailed an egregious history of waste and mismanagement within the BIA. These articles spurred House Appropriations Subcommittee on Interior and Related Agencies Chairman Sidney Yates (D–IL) to conduct an oversight hearing on these alleged abuses.

At the hearing, Department of Interior officials proposed that funds appropriated to the Bureau of Indian Affairs be turned over to the tribes to let them manage their own affairs in an attempt to address these charges. But, the officials testified, by accepting the federal funds, the tribes would release the federal government from its trust responsibility. Tribal leaders disagreed with this quid pro quo, but supported the concept of removing BIA middlemen from the funding process. With Chairman Yates' encouragement, tribal representatives met with the Secretary of the Interior and other Department officials the very next day to further hash out this concept. By mid-December of 1987, ten tribes had agreed to test the Department's proposal.

Out of this proposal the Tribal Self-Governance Demonstration Project was born.

In 1988 Congress enacted Pub. L. No. 100–472 and established Title III of the Indian Self-Determination Act which authorized the Secretary of Interior to negotiate Self-Governance compacts with up to twenty tribes. These tribes, for the first time, would be able to ''Plan, conduct, consolidate, and administer programs, services, and functions'' heretofore performed by Interior officials. The Act required that these programs be ''otherwise available to Indian tribes or Indians,'' but within these parameters the tribes were authorized

to redesign programs and reallocated funding according to terms negotiated in the compacts. Tribes would be able to prioritize spending on a systemic level, dramatically reducing the Federal role in the tribal decision-making process. But perhaps the biggest difference between ''638'' contract process and the Self-Governance program is that instead of funds coming from multiple contracts there would be one compact with a single Annual Funding Agreement.

The original ten tribes that agreed to participate in the demonstration project were the Confederated Salish and Kootenai Tribes, Hoopa Tribe, Jamestown S'Klallam Tribe, Lummi Nation, Mescalero Apache Tribe, Mille Lacs Band of Ojibwe, Quinault Indian Nation, Red Lake Chippewa Tribe, Rosebud Sioux Tribe, and Tlingit and Haida Central Council.

In 1991 President Bush signed Pub. L. 102–184, which extended the Demonstration Project for three more years and increased the number of Tribes participating to thirty. The bill required the new tribes participating to complete a one-year planning period before they could negotiate a Compact and Annual Funding Agreement. The 1991 law also directed the Indian Health Service to conduct a feasibility study to examine the expansion of the Self-Governance project to IHS programs and services.

In 1992, Congress amended section 314 of the Indian Health Care Improvement Act to allow the Secretary of Health and Human Services to negotiate Self-Governance compacts and annual funding agreements under Title III of the Indian Self-Determination Act with Indian tribes. The Self-Governance Demonstration Project proved to be a success both in the Interior Department and the Department of Health and Human Services. Thus, in 1994, Congress responded by passing the ''Tribal Self-Governance Act of 1994'' and permanently established the Self-Governance program within the Department of Interior.

This action solidified the Federal government's policy of negotiating with Indian Tribes and Alaska Native villages on a government-to-government basis while retaining the federal trust relationship. The Tribal Self-Governance Act allowed so called ''Self-Governance tribes'' to compact all programs and services that tribes could contract under Title I of the Indian Self-Determination Act. The Act required an ''orderly transition from Federal domination of programs and services to provide Indian tribes with meaningful authority to plan, conduct, redesign, and administer programs, services, functions, and activities that meet the needs of the individual tribal communities.''

Tribes entering the Self-Governance program had to meet four eligibility requirements. First, the tribe (or tribes in the case of a consortium) must be federally recognized. Second, the tribe must document, with an official action of the tribal governing body, a formal request to enter negotiations with the Department of Interior. Third, the tribe must demonstrate financial stability and financial management capability as evidenced through the administration of prior 638 contracts. Fourth, the tribe must have successfully completed a planning phase, requiring the submission of a final planning report which demonstrates that the tribe has conducted legal and budgetary research and internal tribal government and organizational planning.

The 1994 Act, however, did not make changes to the demonstration project status of the Self-Governance program within the Indian Health Service. The IHS authority remained on a demonstration project basis within Title III of the Indian Self-Determination Act.

The Indian tribes and the Administration agree that it is now time to take the next logical step forward in the Self-Governance process and make the Self-Governance program permanent within the Department of Health and Human Service. H.R. 1167 establishes a permanent Self-Governance Program within the Department of Health and Human Services under which American Indian and Alaska Native tribes may enter into compacts with the Secretary for the direct operation, control, and redesign of Indian Health Service (IHS) activities. A limited number of Indian tribes have had a similar right on a demonstration project basis since 1992 under Title III of the Indian Self-Determination and Education Assistance Act. All Indian tribes have enjoyed a similar but lesser right to contract and operate individual IHS programs and functions under Title I of the Indian Self-Determination Act since 1975 (so-called ''638 contracting'').

In brief, the legislation would expand the number of tribes eligible to participate in Self-Governance, make it a permanent authority within the IHS and authorize the Secretary of Health and Human Services to conduct a feasibility study for the execution of Self-Governance compacts with Indian tribes for programs outside of the IHS but still within HHS.

This legislation is modeled on the existing permanent Self-Governance legislation for Interior Department programs contained in Title IV of the Indian Self-Determination Act and reflects years of planning and negotiation among Indian tribes, Alaska Native villages, the Department of Health and Human Services.

H.R. 1167 continues the principle focus of the Self-Governance program: to remove needless and sometimes harmful layers of federal bureaucracy that dictate Indian affairs. By giving tribes direct control over federal programs run for their benefit and making them directly accountable to their members, Congress had enabled Indian tribes to run programs more efficiently and more innovatively than federal officials have in the past. Allowing tribes to run these programs furthers the Congressional policy of strengthening and promoting tribal governments which began with passage of the first Self-Determination Act in 1975.

Often we need to look to the past in order to understand our proper relationship with Indian tribes. More than two centuries ago, Congress set forth what should be our guiding principles. In 1789, Congress passed the Northwest Ordinance, a set of seven articles intended to govern the addition of new states to the Union. These articles served as a compact between the people and the States, and were ''to forever remain unalterable, unless by common consent.'' Article Three set forth the Nation's policy towards Indian tribes:

> The utmost good faith shall always be observed towards the Indians; their land and property shall never be taken away from them without their consent . . . but laws founded in justice and humanity shall from time to time be made, for preventing wrongs being done to them. . . .

The Founders of this Nation carefully and wisely chose these principles to govern the conduct of our government in its dealings with American Indian tribes. Over the years, these principles have at times been forgotten.

Two hundred years later, Justice Thurgood Marshall delivered a unanimous Supreme Court in 1983 stating that,

> ''Moreover, both the tribes and the Federal Government are firmly committed to the goal of promoting tribal self-government, a goal embodied in numerous federal statutes. We have stressed that Congress' objective of furthering tribal self-government encompasses far more than encouraging tribal management of disputes between members, but includes Congress' overriding goal of encouraging 'tribal self-sufficiency and economic development.''

If we are to adhere and remain faithful to the principles that our Founders set forth—the principles of good faith, consent, justice and humanity—then we must continue to promote tribal self-government as is done in the legislation I bring before the House today.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Utah (Mr. HANSEN) that the House suspend the rules and pass the bill, H.R. 1167, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and add extraneous material on H.R. 1167, the bill just passed.

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

There was no objection.

CLARIFYING COASTAL BARRIER RESOURCES SYSTEM BOUNDARIES

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent to move to suspend the rules and pass the Senate bill (S. 1398) to clarify certain boundaries on maps relating to the Coastal Barrier Resources System.

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

There was no objection.

The Clerk read as follows:

S. 1398

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

SECTION 1. REPLACEMENT OF COASTAL BARRIER RESOURCES SYSTEM MAPS.

(a) IN GENERAL.—The 7 maps described in subsection (b) are replaced by 14 maps entitled ''Dare County, North Carolina, Coastal Barrier Resources System, Cape Hatteras Unit NC–03P'' or ''Dare County, North Carolina, Coastal Barrier Resources System, Cape Hatteras Unit NC–03P, Hatteras Island Unit L03'' and dated October 18, 1999.

(b) DESCRIPTION OF MAPS.—The maps described in this subsection are the 7 maps that—

(1) relate to the portions of Cape Hatteras Unit NC–03P and Hatteras Island Unit L03 that are located in Dare County, North Carolina; and

(2) are included in a set of maps entitled ''Coastal Barrier Resources System'', dated October 24, 1990, and referred to in section 4(a) of the Coastal Barrier Resources Act (16 U.S.C. 3503(a)).

(c) AVAILABILITY.—The Secretary of the Interior shall keep the maps referred to in subsection (a) on file and available for inspection in accordance with section 4(b) of the Coastal Barrier Resources Act (16 U.S.C. 3503(b)).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. JONES) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. JONES).

Mr. JONES of North Carolina. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this legislation is identical to legislation that I introduced earlier this year, which the House passed last month.

This legislation simply corrects a mapping error that currently excludes Dare County residents from qualifying for Federal flood insurance under the Coastal Barrier Research Act.

Congress adopted the Coastal Barrier Research System in the 1980s to protect the coast from future development. When the North Carolina areas were added to the system, it was Congress' intent for the line to be adjacent to the Cape Hatteras National Seashore boundary, thus allowing certain privately owned structures to remain eligible for flood insurance.

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Unfortunately, the National Park Service incorrectly identified the boundary, which resulted in inaccurate maps. This error incorrectly puts approximately 200 landowners in harm's way, especially during hurricane season.

With Hurricanes Dennis and Floyd recently wreaking havoc on the Outer Banks of Eastern North Carolina, this legislation is a justified step forward in providing the necessary assistance to the landowners in Dare County. Currently, these residents have been left unprotected by the inability of the Federal Government to appropriately manage the Coastal Barrier Resource System.

With the assistance of Senator HELMS, the Committee on Resources, and the Fish and Wildlife Service, we have been able to work towards a solution that all sides can agree to. With the help of the gentleman from Alaska (Mr. YOUNG) and the gentleman from New Jersey (Mr. SAXTON), we were able to pass this legislation through the House earlier this year. Passing Senate 1398 today will complete the work we all started a year ago.

The importance of passing this legislation could not be more timely after one of the worst hurricane seasons in recent history. I would hope and encourage my colleagues to support this legislation.

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

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

(Mr. GEORGE MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, let me say at the outset that I very much appreciate the cooperation of the gentleman from New Jersey (Mr. SAXTON) and the gentleman from North Carolina (Mr. JONES) and their staffs for working with us to shape this legislation.

I am satisfied that the boundary changes authorized in this bill are legitimate technical corrections which will resolve the past mapping errors and boundary discrepancies, and I urge the passage of this legislation.

The Coastal Barrier Resources System is critical to the long-term protection of the Nation's coastal resources, and we must remain vigilant to protect it from unwarranted encroachment.

All this bill would do is substitute a final series of revised maps to replace an earlier series already approved by the House when it passed H.R. 1431 on September 21. This bill would authorize the final agreed upon maps.

Let me say from the start, I very much appreciate the cooperation of Mr. SAXTON and his staff in working with the minority in shaping this legislation. I am satisfied that the boundary changes authorized in this bill are legitimate technical corrections which would resolve past mapping errors and boundary discrepancies.

Moreover, we have been assured by both the Fish and Wildlife Service and the National Park Service that these new boundaries accurately depict the boundaries of the Cape Hatteras National Seashore. Hopefully this will eliminate any future confusion regarding this matter.

We also have made sure that none of the coastal barrier units labeled as LO3 have been changed in any way to reduce their spatial areas. And importantly, we have also added approximately 2,300 acres of additional coastal barrier lands to the ''otherwise protected area'' labeled as NC03–P. I want to thank Mr. SAXTON and the gentleman from North Carolina, Mr. JONES, for agreeing to this addition.

Experience has made me necessarily cautious when it comes to modifying any coastal barrier boundary. But in this case, I believe we have gotten it right. I urge my colleagues to support this legislation.

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

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

The SPEAKER pro tempore (Mr. LAHOOD). The question is on the motion offered by the gentleman from North Carolina (Mr. JONES) that the House suspend the rules and pass the Senate bill, S. 1398.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on S. 1398, the Senate bill just passed.

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

There was no objection.

GOVERNMENT WASTE CORRECTIONS ACT OF 1999

Mr. HORN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1827) to improve the economy and efficiency of Government operations by requiring the use of recovery audits by Federal agencies, as amended.

The Clerk read as follows:

H.R. 1827

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 ''Government Waste Corrections Act of 1999''.

SEC. 2. FINDINGS AND PURPOSES.

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

(1) Overpayments are a serious problem for Federal agencies, given the magnitude and complexity of Federal operations and documented and widespread financial management weaknesses. Federal agency overpayments waste tax dollars and detract from the efficiency and effectiveness of Federal operations by diverting resources from their intended uses.

(2) In private industry, overpayments to providers of goods and services occur for a variety of reasons, including duplicate payments, pricing errors, and missed cash discounts, rebates, or other allowances. The identification and recovery of such overpayments. commonly referred to as ''recovery auditing and activity'', is an established private sector business practice with demonstrated large financial returns. On average, recovery auditing and activity in the private sector identify overpayment rates of 0.1 percent of purchases audited and result in the recovery of $1,000,000 for each $1,000,000,000 of purchases.

(3) Recovery auditing and recovery activity already have been employed successfully in limited areas of Federal activity. They have great potential for expansion to many other Federal agencies and activities, thereby resulting in the recovery of substantial amounts of overpayments annually. Limited recovery audits conducted by private contractors to date within the Department of Defense have identified errors averaging 0.4 percent of Federal payments audited, or $4,000,000 for every $1,000,000,000 of payments. If fully implemented within the Federal Government, recovery auditing and recovery activity have the potential to recover billions of dollars in Federal overpayments annually.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To ensure that overpayments made by the Federal Government that would otherwise remain undetected are identified and recovered.

(2) To require the use of recovery audit and recovery activity by Federal agencies.

(3) To provide incentives and resources to improves Federal management practices with the goal of significantly reducing Federal overpayment rates and other waste and error in Federal programs.

SEC. 3. ESTABLISHMENT OF RECOVERY AUDIT REQUIREMENT.

(a) ESTABLISHMENT OF REQUIREMENT.—Chapter 35 of title 31, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VI—RECOVERY AUDITS

''§ 3561. Definitions

''In this subchapter, the following definitions apply:

''(1) DIRECTOR.—The term 'Director' means the Director of the Office of Management and Budget.

''(2) DISCLOSE.—The term 'disclose' means to release, publish, transfer, provide access to, or otherwise divulge individually identifiable information to any person other than the individual who is the subject of the information.

''(3) INDIVIDUALLY IDENTIFIABLE INFORMATION.—The term 'individually identifiable information' means any information, whether oral or recorded in any form or medium, that identifies the individual, or with respect to which there is a reasonable basis to believe that the information can be used to identify the individual.

''(4) OVERSIGHT.—The term 'oversight' means activities by a Federal, State, or local governmental entity, or by another entity acting on behalf of such a governmental entity, to enforce laws relating to, investigate, or regulate payment activities, recovery activities, and recovery audit activities.

''(5) PAYMENT ACTIVITY.—The term 'payment activity' means an executive agency activity that entails making payments to vendors or other nongovernmental entities that provide property or services for the direct benefit and use of an executive agency.

''(6) RECOVERY AUDIT.—The term 'recovery audit' means a financial management technique used to identify overpayments made by executive agencies with respect to vendors and other entities in connection with a payment activity, including overpayments that result from any of the following:

''(A) Duplicate payments.

''(B) Pricing errors.

''(C) Failure to provide applicable discounts, rebates, or other allowances.

''(D) Inadvertent errors.

''(7) RECOVERY ACTIVITY.—The term 'recovery activity' means activity otherwise authorized by law, including chapter 37 of this title, to attempt to collect an identified overpayment—

''(A) within 180 days after the date the overpayment is identified; and

''(B) through established professional practices.

''§ 3562. Recovery audit requirement

''(a) IN GENERAL.—Except as exempted by the Director under section 3565(d) of this title, the head of each executive agency—

''(1) shall conduct for each fiscal year recovery audits and recovery activity with respect to payment activities of the agency if such payment activities for the fiscal year total $500,000,000 or more (adjusted by the Director annually for inflation); and

''(2) may conduct for any fiscal year recovery audits and recovery activity with respect to payment activities of the agency if such payment activities for the fiscal year total less than $500,000,000 adjusted by the Director annually for inflation).

''(5) PROCEDURES.—In conducting recovery audits and recovery activity under this section, the head of an executive agency—

''(1) shall consult and coordinate with the Chief Financial Officer and the Inspector General of the agency;

''(2) shall implement this section in a manner designed to ensure the greatest financial benefit to the Government;

''(3) may conduct recovery audits and recovery activity internally in accordance with the standards issued by the Director under section 3565(b)(2) of this title, or by procuring performance of recovery audits, or by any combination there of; and

''(4) shall ensure that such recovery audits and recovery activity are carried out consistent with the standards issued by the Director and section 3565(b)(2) of this subchapter.

''(c) SCOPE OF AUDITS.—(1) Each recovery audit of a payment activity under this section shall cover payments made by the payment activity in a fiscal year, except that the first recovery audit of a payment activity shall cover payments made during the 2 consecutive fiscal years preceding the date of the enactment of the Government Waste Corrections Act of 1999.

''(2) The head of an executive agency may conduct recovery audits of payment activities for additional preceding fiscal years if determined by the agency head to be practical and cost-effective.

''(d) RECOVERY AUDIT CONTRACTS.—

''(1) AUTHORITY TO USE CONTINGENCY CONTRACTS.—Notwithstanding section 3302(b) of this title, as consideration for performance of any recovery audit procured by an executive agency, the executive agency, the executive agency may pay the contractor an amount equal to a percentage of the total amount collected by the United States as a result of overpayments identified by the contractor in the audit.

''(2) ADDITIONAL FUNCTIONS OF CONTRACTOR.—(A) In addition to performance of a recovery audit, a contract for such performance may authorize the contractor (subject to subparagraph (B)) to—

''(i) notify any person of possible overpayments made to the person and identified in the recovery audit under the contract; and

''(ii) respond to questions concerning such overpayments.

''(B) A contract for performance of a recovery audit shall not affect—

''(i) the authority of the head of an executive agency under the Contract Disputes Act of 1978 and other applicable laws including the authority to initiate litigation or referrals for litigation or:

''(ii) the requirements of sections 3711, 3716, 3718, and 3720 of this title that the head of an agency resolve disputes, compromise or terminate overpayment claims, collect by setoff, and otherwise engage recovery activity with respect to overpayments identified by the recovery audit.

''(3) LIMITATION ON AUTHORITY.—Nothing in this subchapter shall be construed to authorize a contractor with an executive agency to require the production of any record or information by any person other than an officer, employee, or agent of the executive agency.

''(4) REQUIRED CONTRACT TERMS AND CONDITIONS.—The head of an executive agency shall include in each contract for procurement of performance of a recovery audit requirements that the contractor shall—

''(A) protect from disclosure otherwise confidential business information and financial information;

''(B) provide to the head of the executive agency and the Inspector General of the executive agency periodic reports on conditions giving rise to overpayments identified by the contractor and any recommendations on how to mitigate such conditions.

''(C) notify the head of the executive agency and the agency of any overpayments identified by the contractor pertaining to the executive agency or to another executive agency that are beyond the scope of the contract; and

''(D) promptly notify the head of the executive agency and the Inspector General of the executive agency of any indication of fraud or other criminal activity discovered in the course of the audit.

''(5) EXECUTIVE AGENCY ACTION FOLLOWING NOTIFICATION.—The head of an executive agency shall take prompt and appropriate action in response to a notification by a contractor pursuant to the requirements under paragraph (4) including forwarding to other executive agencies any information that applies to them.

''(6) CONTRACTING REQUIREMENTS.—Prior to contracting for any recovery audit, head of an executive agency shall conduct a public-private cost comparison process. The outcome of the cost comparison process shall determine whether the recovery audit is performed in-house or by a contractor.

''(e) INSPECTORS GENERAL.—Nothing in this subchapter shall be construed as diminishing the authority of any Inspector General, including such authority under the Inspector General Act of 1978.

''(f) PRIVACY PROTECTIONS.—

''(1) LIMITATION ON DISCLOSURE OF INDIVIDUALLY IDENTIFIABLE INFORMATION.—(A) Any non-governmental entity that obtains individually identifiable information through performance of recovery auditing or recovery activity under this chapter may disclose that information only for the purpose of such auditing or activity, respectively, and oversight of such auditing or activity, unless otherwise authorized by the individual that is the subject of the information.

''(B) Any person that violates subparagraph (A) shall be liable for any damages (including non-pecuniary damages, costs, and attorneys fees) caused by the violation.

''(2) DESTRUCTION OR RETURN OF INFORMATION.—Upon the conclusion of the matter or need for which individually identifiable information was disclosed in the course of recovery auditing or recovery activity under this chapter performed by a non-governmental entity, the non-governmental entity shall either destroy the individually identifiable information or return it to the person from whom it was obtained, unless another applicable law requires retention of the information.

''§ 3563. Disposition of amounts collected

''(a) IN GENERAL.—Notwithstanding section 3302(b) of this title, the amounts collected annually by the United States as a result or recovery audits by an executive agency under this subchapter shall be treated in accordance with this section.

''(b) USE FOR RECOVERY AUDIT COSTS.—Amounts referred to in subsection (a) shall be available to the executive agency—

''(1) to pay amounts owed to any contractor for performance of the audit; and

''(2) to reimburse any applicable appropriation for other recovery audit costs incurred by the executive agency with respect to the audit.

''(c) USE FOR MANAGEMENT IMPROVEMENT PROGRAM.—Of the amount referred to in subsection (a), a sum not to exceed 25 percent of such amount—

''(1) shall be available to the executive agency to carry out the management improvement program of the agency under section 3564 of this title;

''(2) may be credited for that purpose by the agency head to any agency appropriations that are available for obligation at the time of collection; and

''(3) shall remain available for the same period as the appropriations to which credited.

''(d) REMAINDER TO TREASURY.—Of the amount referred to in subsection (a), there shall be deposited into the Treasury as miscellaneous receipts a sum equal to—

''(1) 50 percent of such amount; plus

''(2) such other amounts as remain after the application of subsections (b) and (c).

''(e) LIMITATION ON APPLICATION.—

''(1) IN GENERAL.—This section shall not apply to amounts collected through recovery audits and recovery activity to the extent that such application would be inconsistent with another provision of law that authorizes crediting of the amounts to a non-appropriated fund instrumentality, revolving fund, working capital fund, trust fund, or other fund or account.

''(2) SUBSECTIONS (c) AND (d).—Subsections (c) and (d) shall not apply to amounts collected through recovery audits and recovery activity, to the extent that such amounts are derived from an appropriation or fund that remains available for obligation at the time the amounts are collected.

''§ 3564. Management improvement program

''(a) CONDUCT OF PROGRAM.—

''(1) REQUIRED PROGRAMS.—The head of each executive agency that is required to conduct recovery audits under section 3562 of this title shall conduct a management improvement program under this section, consistent with guidelines prescribed by the Director.

''(2) DISCRETIONARY PROGRAMS.—The head of any other executive agency that conducts recovery audits under section 3562 that meet the standards issued by the Director under section 3565(b)(2) may conduct a management improvement program under this section.

''(b) PROGRAM FEATURES.—In conducting the program, the head of the executive agency—

''(1) shall, as the first priority of the program, address problems that contribute directly to agency overpayments; and

''(2) may seek to reduce errors and waste in other executive agency programs and operations by improving the executive agency's staff capacity, information technology, and financial management.

''(c) INTEGRATION WITH OTHER ACTIVITIES.—The head of an executive agency—

''(1) subject to paragraph (2), may integrate the program under this section, in whole or in part, with other management improvement programs and activities of that agency or other executive agencies; and

''(2) must retain the ability to account specifically for the use of amounts made available under section 3563 of this title.

''§ 3565. Responsibilities of the Office of Management and Budget

''(a) IN GENERAL.—The Director shall coordinate and oversee the implementation of this subchapter.

''(b) GUIDANCE.—

''(1) IN GENERAL.—The Director, in consultation with the Chief Financial Officers Council and the President's Council on Integrity and Efficiency, shall issue guidance and provide support to agencies in implementing the subchapter. The Director shall issue initial guidance not later than 180 days after the date of enactment of the Government Waste Corrections Act of 1999.

''(2) RECOVERY AUDIT STANDARDS.—The Director shall include in the initial guidance under this subsection standards for the performance of recovery audits under this subchapter, that are developed in consultation with the Comptroller General of the United States and private sector experts on recovery audits.

''(c) FEE LIMITATIONS.—The Director may limit the percentage amounts that may be paid to contractors under section 3562(d)(1) of this title.

''(d) EXEMPTIONS.—

''(1) IN GENERAL.—The Director may exempt an executive agency, in whole or in part, from the requirement to conduct recovery audits under section 3562(a)(1) of this title if the Director determines that compliance with such requirement—

''(A) would impede the agency's mission; or

''(B) would not be cost-effective.

''(2) REPORT TO CONGRESS.—The Director shall promptly report the basis of any determination and exemption under paragraph (1) to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.

''(e) REPORTS.—

''(1) IN GENERAL.—Not later than 1 year after the date of the enactment of the Government Waste Corrections Act of 1999, and annually for each of the 2 years thereafter, the Director shall submit a report on implementation of the subchapter to the President, the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Appropriations of the House of Representatives and of the Senate.

''(2) CONTENTS.—Each report shall include—

''(A) a general description and evaluation of the steps taken by executive agencies to conduct recovery audits, including an inventory of the programs and activities of each executive agency that are subject to recovery audits.

''(B) an assessment of the benefits of recovery auditing and recovery activity, including amounts identified and recovered (including by administrative setoffs).

''(C) an identification of best practices that could be applied to future recovery audits and recovery activity.

''(D) an identification of any significant problems or barriers to more effective recovery audits and recovery activity;

''(E) a description of executive agency expenditures in the recovery audit process.

''(F) a description of executive agency management improvement programs under section 3564 of this title; and

''(G) any recommendations for changes in executive agency practices or law or other improvements that the Director believes would enhance the effectiveness of executive agency recovery auditing.

''§ 3566. General Accounting Office reports

''Not later than 60 days after issuance of each report under section 3565(e) of this title, the Comptroller General of the United States shall submit a report on the implementation of this subchapter to the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Appropriations of the House of Representatives and of the Senate, and the Director.''

(b) APPLICATION TO ALL EXECUTIVE AGENCIES.—Section 3501 of title 31, United States code, is amended by inserting ''and subchapter VI of this chapter'' after ''section 3513''.

(c) DEADLINE FOR INITIATION OF RECOVERY AUDITS.—The need of each executive agency shall begin the first recovery audit under section 3562(a)(1) title 31, United States Code, as amended by this section, for each payment activity referred to in those sections by not later than 18 months after the date of the enactment of this Act.

(d) CLERICAL AMENDMENT.—The analysis at the beginning of chapter 35 of title 31, United States Code, is amended by adding at the end the following:

''SUBCHAPTER VI—RECOVERY AUDITS

''3561. Definitions.
''3562. Recovery audit requirement.
''3563. Disposition of amounts collected.
''3564. Management improvement program.
''3565. Responsibilities of the Office of Management and Budget.
''3566. General Accounting Office reports.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HORN) and the gentleman from Texas (Mr. TURNER) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HORN).

GENERAL LEAVE

Mr. HORN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1827, the bill under consideration.

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

There was no objection.

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

Mr. Speaker, H.R. 1827 would require executive branch departments and agencies to use a process called recovery auditing to review Federal payment transactions in order to identify erroneous overpayments.

H.R. 1827, the Government Waste Corrections Act, which was authored by the gentleman from Indiana (Mr. BURTON), the chairman of the full Committee on Government Reform; and he was joined in that by the majority leader, the gentleman from Texas (Mr. ARMEY) and the gentleman from California (Mr. OSE), who is an active member of the Subcommittee on Government Management, Information and Technology, which I chair.

This act represents a milestone in the effort to reduce widespread fraud, waste and error in Federal programs that cost taxpayers billions of dollars every year. At a Committee on Government Reform hearing on government waste and mismanagement last February, Inspectors General from the Departments of Health and Human Services, Housing and Urban Development, and Agriculture testified about their major program and management problems. One of the more serious problems they identified was that of erroneous payments.

It is estimated that a total of about $15 billion was erroneously paid out of Medicare, food stamps and housing programs in 1 year alone. Close to $13 billion of that was in the Medicare program. How much of this is due to fraud versus human or technical error is unknown at this point.

In addition, on March 31, 1999, the subcommittee I chair examined the government-wide consolidated financial statement for fiscal year 1998. The General Accounting Office, which is part of the legislative branch and does both programmatic and fiscal auditing, found that among the most serious errors of waste were the billions of dollars in improper payments the government makes to its contractors, vendors and suppliers.

Most Federal overpayments go undetected because agencies do not track and report their improper payments, and there is currently no law requiring them to do so. Every year, however, this problem wastes huge amounts of taxpayers' dollars, and that is what we are committed to end. Such waste detracts from the efficiency and effectiveness of Federal operations by diverting resources from their intended uses.

H.R. 1827 addresses the problem of inadvertent overpayments using a proven private-sector business practice known as recovery auditing to identify and recover the overpayments made to private vendors. A typical recovery audit works like this: An agency's purchases and payments are reviewed, usually by customized software, which is used across the country in private business such as those auditing private health plans. Firms similar to Blue Shield/Blue Cross, would utilize software designated to scan a hospital bill for a particular disease. If that disease required certain processes, they ought to be in that billing. If other processes not relevant would cause a close examination of the bill. So the same with other agencies to identify where overpayments may have occurred.

Typical errors include such things as vendor pricing mistakes, missed discounts, duplicate payments and so on down the line. Once an error is identified and verified by the agency, a notification letter is sent to the vendor for review and response. Recoveries are usually made through administrative offsets or direct payments.

Under H.R. 1827, agencies would be required to use recovery auditing if they spend $500 million or more annually for the purchase of goods and services for the agency's direct benefit. The bill encourages agencies to use recovery auditing for all procurements, regardless of the amount of the transaction.

The bill only applies recovery auditing to an agency's spending for direct contracting; in other words, when an agency purchases goods and services that directly benefit the agency or will be used by that agency. Examples of direct contracting include payments made to a contractor to build a new Veterans Hospital or payments made by the Defense Department for the purchase of a new weapon system.

H.R. 1827 would not require recovery auditing for programs that involve payments to third parties for the delivery of indirect services, such as education or drug treatment grants or payments to intermediaries who administer the Medicaid program. In these programs, Federal payments must make their way through any number of entities—including States, localities, and other entities—before the service is actually delivered to the general population. These payment systems are often so complex that it is uncertain at this time where and how the recovery audit procedure would best be applied.

Mr. Speaker, it is important to note that this legislation addresses the problems that cause the overpayments. The bill requires agencies to use part of the money they recover to work on improvements to their management and financial systems. We had a similar incentive in the Debt Collection Act of 1996, which I authored, and it has worked very well. The more they do and collect, and they do it efficiently, they can use some of the funds to improve their collection services.

As a priority, departments and agencies would have to work to improve overpayment error rates, but the money could also be used to make improvements to the agency's staff capacity, information technology and financial management functions. The bill would also send at least 50 percent of recovered overpayments back to The Treasury, making this bill a win-win for the government and, even more important, the American people the taxpayers.

Mr. Speaker, H.R. 1827 is a very important step in our efforts to increase the accountability of the Federal Government, and I am pleased to be here to support this legislation and urge my colleagues to support it as well.

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

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

Mr. Speaker, I rise today in strong support of H.R. 1827, the Government Waste Corrections Act of 1999. I want to first commend the chairman of the full committee, the gentleman from Indiana (Mr. BURTON), and the ranking member, the gentleman from California (Mr. WAXMAN), as well as the chairman of the subcommittee, the gentleman from California (Mr. HORN), for their work and leadership in bringing this proposal to the floor.

Mr. Speaker, it was shocking for our committee to learn that every year Federal agencies pay out millions of dollars to vendors and to government contractors that the agencies do not even owe. For example, between 1994 and 1998, private-sector defense contractors voluntarily returned to the government almost a billion dollars. Even more alarming is the fact that the government, the Department of Defense, did not even know that these overpayments had been made.

No matter how efficient a financial management system is, overpayments do occur. And, in fact, the larger the volume of purchases, which in the case of the Department of Defense is in the billions of dollars, the greater the likelihood of overpayments. This legislation addresses this problem by requiring Federal agencies to use a financial management tool that is called recovery auditing.

Recovery auditing is used to identify overpayments due to financial system weaknesses, problems with fundamental recordkeeping and financial reporting, incomplete documentation, and other weaknesses in a financial accounting system. It has been used very successfully by the automobile, retail, and food services industries in our country for more than 30 years. It is currently employed by the majority of the Fortune 500 companies. However, only a very few Federal agencies have utilized the process.

One agency that has used recovery auditing is the Army and Air Force Exchange Service, which recovered $25 million in overpayments through recovery auditing in 1998.

H.R. 1827 would require Federal agencies to conduct recovery auditing on all payment activities over $500 million annually on goods and services for the use or direct benefit of the agency. Recovery audits would be optional for other payment activities.

This bill provides that the contractors simply identify potential overpayments. They have no authority to make determinations or to take collective action. These functions remain at all times with the agency itself. Audits are to be structured to produce the greatest financial gain to the government and must comply with a recovery audit standard to be set forth by the director of the Office of Management and Budget.

Agencies would be authorized to conduct recovery audits in house, contract with private recovery specialists, or use any combination of the two. The agency head would have the authority to use contingency contracts, whereby a contractor would be allowed to retain a percentage of collections from the overpayments they identify during the audit. The agency head would also be free to adopt compensation arrangements other than contingency fees. The bill provides the amounts recovered will be available to pay for a recovery audit contractor or to reimburse appropriations for recovery audit costs incurred by the agency.

At least 50 percent of the overpayments recouped will go back to the general treasury of the government. Up to 25 percent of the overpayments recouped may be used for a management improvement program designed to prevent future overpayments and waste at the agency.

During the subcommittee markup on this bill, a number of concerns were discussed regarding reservations that the health care industry had about this bill. At that time, we, as a committee, pledged to work out a solution to those concerns before full markup. In keeping with that commitment, on November 10 the gentleman from Indiana (Mr. BURTON) offered an amendment in the nature of a substitute which limited this bill to direct services to the government.

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It is my understanding that this substitute alleviated the concerns that were expressed by the health care industry.

Also, at the full committee I offered an amendment which the committee

adopted relating to privacy protections for individually identifiable information. This amendment will provide safeguards and remedies to people who might have had their records misused by private recovery auditing firms.

Additionally, the gentleman from California (Mr. WAXMAN), the ranking member, offered an amendment which was also adopted by the committee which ensures that the agency head will conduct a public-private cost comparison before deciding to contract for recovery auditing services on the outside.

I appreciate the bipartisan manner that both of these amendments were negotiated under and which H.R. 1827 passed out of the committee on a voice vote.

Mr. Speaker, H.R. 1827 represents a significant step toward dealing with the billions of dollars in Federal overpayments that our committee discovered were made every year. I am pleased to be a cosponsor. Recovery auditing is simply good government.

I again commend the gentleman from Indiana (Chairman BURTON), the gentleman from California (Mr. WAXMAN), and the gentleman from California (Chairman HORN) for their leadership on the bill.

I urge the House to adopt H.R. 1827.

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

Mr. HORN. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. BURTON).

Mr. BURTON of Indiana. Mr. Speaker, as the author of the bill, I have just been informed that one of our colleagues has some minor problems with the bill. In order to accommodate him, what I would like to do, with unanimous consent of the House, is to withdraw the bill at this time, try to correct any differences that we have, and then bring the bill up later today. I think we can do that in a relatively short period of time.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from California (Mr. HORN) needs to withdraw the motion.

Mr. HORN. Mr. Speaker, I ask unanimous consent to withdraw the motion to suspend the rules.

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

There was no objection.

The SPEAKER pro tempore. The motion is withdrawn.

EXPORT ENHANCEMENT ACT OF 1999

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3381) to reauthorize the Overseas Private Investment Corporation and the Trade and Development Agency, and for other purposes.

The SPEAKER pro tempore. Is there objection to consideration of the motion at this time?

There was no objection.

The Clerk read as follows:

H.R. 3381

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 ''Export Enhancement Act of 1999''.

SEC. 2. OPIC ISSUING AUTHORITY.

Section 235(a)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)(3)) is amended by striking ''1999'' and inserting ''2003''.

SEC. 3. IMPACT OF OPIC PROGRAMS.

(a) ADDITIONAL REQUIREMENTS.—Section 231A of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

''(b) ENVIRONMENTAL IMPACT.—The Board of Directors of the Corporation shall not vote in favor of any action proposed to be taken by the Corporation that is likely to have significant adverse environmental impacts that are sensitive, diverse, or unprecedented, unless for at least 60 days before the date of the vote—

''(1) an environmental impact assessment or initial environmental audit, analyzing the environmental impacts of the proposed action and of alternatives to the proposed action has been completed by the project applicant and made available to the Board of Directors; and

''(2) such assessment or audit has been made available to the public of the United States, locally affected groups in the host country, and host country nongovernmental organizations.''; and

(3) in subsection (c), as so redesignated—

(A) by inserting ''(1)'' before ''The Board'; and

(B) by adding at the end the following:

''(2) In conjunction with each meeting of its Board of Directors, the Corporation shall hold a public hearing in order to afford an opportunity for any person to present views regarding the activities of the Corporation. Such views shall be made part of the record.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 90 days after the date of the enactment of this Act.

SEC. 4. BOARD OF DIRECTORS OF OPIC.

Section 233(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2193(b)) is amended—

(1) by striking the second and third sentences;

(2) in the fourth sentence by striking ''(other than the President of the Corporation, appointed pursuant to subsection (c) who shall serve as a Director, ex officio)'';

(3) in the second undesignated paragraph—

(A) by inserting ''the President of the Corporation, the Administrator of the Agency for International Development, the United States Trade Representative, and'' after ''including''; and

(B) by adding at the end the following: ''The United States Trade Representative may designate a Deputy United States Trade Representative to serve on the Board in place of the United States Trade Representative.''; and

(4) by inserting after the second undesignated paragraph the following:

''There shall be a Chairman and a Vice Chairman of the Board, both of whom shall be designated by the President of the United States from among the Directors of the Board other than those appointed under the second sentence of the first paragraph of this subsection.''.

SEC. 5. TRADE AND DEVELOPMENT AGENCY.

(a) PURPOSE.—Section 661(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2421(a)) is amended by inserting before the period at the end of the second sentence the following: '', with special emphasis on economic sectors with significant United States export potential, such as energy, transportation, telecommunications, and environment''.

(b) CONTRIBUTIONS OF COSTS.—Section 661(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2421(b)) is amended by adding at the end the following:

''(5) CONTRIBUTIONS TO COSTS.—The Trade and Development Agency shall, to the maximum extent practicable, require corporations and other entities to—

''(A) share the costs of feasibility studies and other project planning services funded under this section; and

''(B) reimburse the Trade and Development Agency those funds provided under this section, if the corporation or entity concerned succeeds in project implementation.''.

(c) FUNDING.—Section 661(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2421(f)) is amended—

(1) in paragraph (1)(A) by striking ''$77,000,000'' and all that follows through ''1996'' and inserting ''$48,000,000 for fiscal year 2000 and such sums as may be necessary for each fiscal year thereafter''; and

(2) in paragraph (2)(A), by striking ''in fiscal years'' and all that follows through ''provides'' and inserting ''in carrying out its program, provide, as appropriate, funds''.

SEC. 6. IMPLEMENTATION OF PRIMARY OBJECTIVES OF TPCC.

The Trade Promotion Coordinating Committee shall—

(1) report on the actions taken or efforts currently underway to eliminate the areas of overlap and duplication identified among Federal export promotion activities;

(2) coordinate efforts to sponsor or promote any trade show or trade fair;

(3) work with all relevant State and national organizations, including the National Governors' Association, that have established trade promotion offices;

(4) report on actions taken or efforts currently underway to promote better coordination between State, Federal, and private sector export promotion activities, including co-location, cost sharing between Federal, State, and private sector export promotion programs, and sharing of market research data; and

(5) by not later than March 30, 2000, and annually thereafter, include the matters addressed in paragraphs (1), (2), (3), and (4) in the annual report required to be submitted under section 2312(f) of the Export Enhancement Act of 1988 (15 U.S.C. 4727(f)).

SEC. 7. TIMING OF TPCC REPORTS.

Section 2312(f) of the Export Enhancement Act of 1988 (15 U.S.C. 4727(f)) is amended by striking ''September 30, 1995, and annually thereafter,'' and inserting ''March 30 of each year,''.

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

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

GENERAL LEAVE

Mr. GILMAN. 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. 3381.

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

There was no objection.

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

Mr. Speaker, I am pleased to rise in strong support of the Export Enhancement Act of 1999. This measure before us today provides a 4-year authorization of OPIC, an authorization of the Trade and Development Agency and several provisions enhancing the effectiveness of the Trade Promotion Coordinating Committee.

Mr. Speaker, this measure is a stripped-down version of H.R. 1993, which passed the House on October 13 by an overwhelming margin of 357 to 71. This bill enjoys full bipartisan support. It is identical to the text of a measure the Senate is ready to consider in the very near future.

Passing this measure today will ensure that the Overseas Private Investment Corporation will get the authorities it needs to play a key role in boosting our Nation's competitiveness and export potential.

I urge its prompt adoption.

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

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

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

Mr. MENENDEZ. Mr. Speaker, I rise in strong support of this measure to reauthorize the OPIC and the U.S. Trade Development Agency.

Basically, there is a version that has already passed the House 357–71, but to expedite it in the Senate, we are pursuing it in this fashion.

Export promotion programs, like OPIC and TDA, provide crucial support for American businesses in the global marketplace. U.S. exports of goods and services are estimated to support more than 12 million domestic jobs. Each $1 billion in U.S. goods and services supports approximately 13,000 jobs. This is a reality in my home State of New Jersey, as well as throughout the country.

OPIC has had a positive net income for every year of operation, which reserves now total more than $3 billion. Last year it earned a profit of $139 million and contributes over $204 million in net negative budget authority.

So at a time when Congress is striving to adhere to the constraints of a balanced budget, OPIC stands a part of a revenue earning program. It also complements our efforts across the globe to open up markets.

I want to thank the gentleman from Connecticut (Mr. GEJDENSON) and the gentleman from Illinois (Mr. MANZULLO), my colleague, for his efforts to work with our office to achieve an agreement that ensures OPIC will continue to provide services to American investors overseas.

I also want to thank the gentleman from New York (Chairman GILMAN), the distinguished chairman of the committee, for his commitment to work with myself and the gentleman from Connecticut (Mr. GEJDENSON) on an International Trade Administration reauthorization bill at the beginning of the next session of the 106th Congress. I hope that we can build on the bill that we develop in this session and pass an ITA reauthorization bill as early as possible next year.

I urge Members to support passage of the legislation.

Mr. MANZULLO. Mr. Speaker, I rise in support of the Export Enhancement Act. For the benefit of my colleagues, let me provide some background to where we are today.

H.R. 3381 is a bipartisan and bicameral work-product. Both Members and staff from both sides of the aisle and both sides of Capitol Hill worked on this together in order to get this bill to the President as quickly as possible. The temporary reauthorization extension for the Overseas Private Investment Corporation expires today. It's time to finally get this legislation to the President.

The House version of H.R. 1993 is subject to a hold in the other body for reasons that have nothing to do with the substance of the legislation. Passage of H.R. 3381 now by the House is one way to seek quick action on a four year authorization for OPIC in case the House adjourns for the year prior to the Senate.

There are some changes. The most important are provisions dealing with the International Trade Administration were removed because of jurisdictional concerns with the Senate Banking Committee.

But it is important to remember what the new bill retains—four year OPIC reauthorization; success fee language on the Trade and Development Agency; and streamlining the efforts of the 19 federal agencies involved in export promotion. All of these provisions will help America increase U.S. exports and eliminate government waste. I urge my colleagues to support H.R. 3381.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and pass the bill, H.R. 3381.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PROVIDING SUPPORT FOR CERTAIN INSTITUTES AND SCHOOLS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the Senate bill, S. 440.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. HILLEARY) that the House suspend the rules and pass the Senate bill, S. 440, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 128, nays 291, not voting 14, as follows:

[Roll No. 597]

YEAS—128

Abercrombie	Frelinghuysen	Millender-McDonald
Allen	Gejdenson	Moakley
Baird	Gephardt	Moran (VA)
Bateman	Gillmor	Murtha
Berman	Gilman	Neal
Biggert	Gordon	Ney
Blagojevich	Goss	Oberstar
Bliley	Hall (OH)	Olver
Blumenauer	Hall (TX)	Ortiz
Boehner	Hastings (FL)	Oxley
Bonior	Hilleary	Packard
Bono	Hobson	Phelps
Borski	Hoekstra	Pickering
Boucher	Holt	Pryce (OH)
Brady (PA)	Hooley	Quinn
Brady (TX)	Horn	Radanovich
Brown (OH)	Houghton	Rahall
Bryant	Hoyer	Rangel
Camp	Hyde	Regula
Capuano	Jackson (IL)	Rush
Castle	Jenkins	Sabo
Clay	Johnson (CT)	Sanders
Clement	Kaptur	Sawyer
Clyburn	Kasich	Schakowsky
Costello	King (NY)	Scott
Coyne	Kucinich	Shimkus
Davis (IL)	Lantos	Skelton
DeFazio	Larson	Strickland
DeGette	LaTourette	Stupak
Delahunt	Lazio	Tanner
DeLauro	Leach	Tauscher
DeLay	Lewis (CA)	Taylor (NC)
Dickey	Maloney (CT)	Tiahrt
Dicks	Markey	Traficant
Dixon	Martinez	Walden
Dooley	Matsui	Walsh
Duncan	McCarthy (NY)	Wamp
Dunn	McDermott	Waxman
English	McGovern	Weller
Eshoo	McHugh	Wicker
Evans	McNulty	Wu
Filner	Meehan	Wynn
Ford	Metcalf	

NAYS—291

Aderholt	Cook	Gutknecht
Andrews	Cooksey	Hansen
Archer	Cox	Hastings (WA)
Armey	Cramer	Hayes
Bachus	Crane	Hayworth
Baker	Crowley	Hefley
Baldacci	Cubin	Herger
Baldwin	Cummings	Hill (IN)
Ballenger	Cunningham	Hill (MT)
Barcia	Danner	Hilliard
Barr	Deal	Hinchey
Barrett (NE)	DeMint	Hinojosa
Barrett (WI)	Deutsch	Hoeffel
Bartlett	Diaz-Balart	Holden
Barton	Dingell	Hostettler
Bass	Doggett	Hulshof
Becerra	Doolittle	Hunter
Bentsen	Doyle	Hutchinson
Bereuter	Dreier	Inslee
Berkley	Edwards	Isakson
Berry	Ehlers	Istook
Bilbray	Ehrlich	Jackson-Lee (TX)
Bilirakis	Emerson	Jefferson
Bishop	Engel	John
Blunt	Etheridge	Johnson, E. B.
Boehlert	Everett	Johnson, Sam
Bonilla	Ewing	Jones (NC)
Boswell	Fattah	Jones (OH)
Boyd	Fletcher	Kanjorski
Brown (FL)	Foley	Kelly
Burr	Forbes	Kennedy
Burton	Fossella	Kildee
Buyer	Fowler	Kilpatrick
Callahan	Frank (MA)	Kind (WI)
Calvert	Franks (NJ)	Kingston
Campbell	Frost	Kleczka
Canady	Gallegly	Klink
Cannon	Ganske	Knollenberg
Capps	Gekas	Kolbe
Cardin	Gibbons	Kuykendall
Carson	Gilchrest	LaFalce
Chabot	Gonzalez	LaHood
Chambliss	Goode	Latham
Chenoweth-Hage	Goodlatte	Lee
Clayton	Goodling	Levin
Coble	Graham	Lewis (GA)
Coburn	Granger	Lewis (KY)
Collins	Green (TX)	Linder
Combest	Green (WI)	Lipinski
Condit	Greenwood	LoBiondo
Conyers	Gutierrez	

Lofgren	Pitts	Souder
Lowey	Pombo	Spratt
Lucas (KY)	Pomeroy	Stabenow
Lucas (OK)	Portman	Stark
Luther	Price (NC)	Stearns
Maloney (NY)	Ramstad	Stenholm
Manzullo	Reyes	Stump
Mascara	Reynolds	Sununu
McCarthy (MO)	Riley	Sweeney
McCollum	Rivers	Talent
McCrery	Rodriguez	Tancredo
McInnis	Roemer	Tauzin
McIntyre	Rogan	Taylor (MS)
McKeon	Rogers	Terry
McKinney	Rohrabacher	Thomas
Meek (FL)	Ros-Lehtinen	Thompson (CA)
Meeks (NY)	Rothman	Thompson (MS)
Menendez	Roukema	Thornberry
Mica	Roybal-Allard	Thune
Miller (FL)	Royce	Thurman
Miller, Gary	Ryan (WI)	Tierney
Miller, George	Ryun (KS)	Toomey
Minge	Salmon	Towns
Mink	Sanchez	Turner
Mollohan	Sandlin	Udall (CO)
Moore	Sanford	Udall (NM)
Moran (KS)	Saxton	Upton
Myrick	Schaffer	Velazquez
Nadler	Sensenbrenner	Vento
Napolitano	Serrano	Visclosky
Nethercutt	Sessions	Vitter
Northup	Shadegg	Waters
Norwood	Shaw	Watkins
Nussle	Shays	Watt (NC)
Ose	Sherman	Watts (OK)
Owens	Sherwood	Weiner
Pallone	Shows	Weldon (FL)
Pascrell	Shuster	Weldon (PA)
Pastor	Simpson	Weygand
Paul	Sisisky	Whitfield
Payne	Skeen	Wilson
Pease	Slaughter	Wolf
Pelosi	Smith (MI)	Woolsey
Peterson (MN)	Smith (NJ)	Young (AK)
Peterson (PA)	Smith (TX)	Young (FL)
Petri	Smith (WA)	
Pickett	Snyder	

NOT VOTING—14

Ackerman	Largent	Scarborough
Davis (FL)	McIntosh	Spence
Davis (VA)	Morella	Wexler
Farr	Obey	Wise
Lampson	Porter	

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Messrs. BASS, CRANE, SHOWS, INSLEE, CRAMER, SMITH of Texas, MCINTYRE, TERRY, DOOLITTLE, POMEROY, BALDACCI, and PETRI, and Mrs. NORTHUP, Mrs. MALONEY of New York, Mrs. KELLY, Ms. SANCHEZ, Ms. DANNER, Ms. WOOLSEY, and Ms. MCKINNEY changed their vote from ''yea'' to ''nay.''

Messrs. MCDERMOTT, HOYER, WICKER, and TIAHRT changed their vote from ''nay'' to ''yea.''

So (two-thirds not having voted in favor thereof), the motion was rejected.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

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

Mr. BONIOR. Mr. Speaker, I would like to inquire from the majority leader the schedule for the day and perhaps the remainder of the week.

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

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

Mr. ARMEY. Mr. Speaker, let me advise Members that they may have received an errant, incorrect message over the House beeper system. This vote is not necessarily the last vote of the day.

The House and Senate leadership are working together to try to find ways to work around a couple of particular parliamentary problems that the Senate has. At this time of the year, as Members know, in order to do the final work of the year, the two bodies must coordinate and must be able to move together. They have some difficulties over on the other side of the building that we are trying to work around.

So that I would say to the Members, if, in fact, we are able to work through some agreements, we might be able to have one additional vote of big consequence to all of our membership later in the day, and we should also be prepared to vote again tomorrow. All of this is contingent upon how well we can negotiate agreements between leadership on both sides of the aisle in both bodies, and then get sort of key, what should I say, agreements by individual Members here and there regarding possible UCs that might be necessary to implement what it is we can agree to.

So we have 435 House Members, 100 Members of the other body that must be copasetic with whatever we can work out. We are working hard on this. We would not want any Member to feel like they lost their opportunity to be here at that magic moment when we could come to the floor with all of these people in agreement with one another.

So I would ask Members to stay close to their best information source, their beepers or whatever, and prepare yourself for the possibility of additional votes today and additional votes tomorrow.

Mr. BONIOR. Mr. Speaker, I thank my colleague for his information, although it is a little cryptic.

Mr. ARMEY. It is.

Mr. BONIOR. To say the least.

Mr. ARMEY. Mr. Speaker, I would give my colleagues the details if I understood them.

Mr. BONIOR. Mr. Speaker, let me try to guess then, okay?

Mr. ARMEY. Mr. Speaker, if the gentleman will yield, I could name names too, but it would be of no avail. I think the body pretty well knows the circumstances.

Mr. BONIOR. Mr. Leader, are we talking about today doing the extender bill, the tax extender bill?

Mr. ARMEY. I am sorry?

Mr. BONIOR. Is the gentleman alluding to the tax extender bill in his comments?

Mr. ARMEY. Mr. Speaker, it is possible that the tax extender bill and attendant items could be brought to the floor later today.

Mr. BONIOR. Mr. Speaker, when the gentleman says attendant items, is he talking about perhaps not having it clean and having it come back with some other issues?

Mr. ARMEY. If the gentleman from Michigan will yield, he will have to pull every inch of this out of me.

Mr. BONIOR. That is what I am trying to do, Mr. Speaker.

Mr. ARMEY. I know that.

Mr. BONIOR. Mr. Speaker, let me ask, is it possible that we could see the dairy piece on the extender bill?

Mr. ARMEY. We do not know.

Mr. BONIOR. Well, obviously, Mr. Speaker, it would be helpful if we had some anticipation of what we are going to be seeing so Members can be prepared; and to the extent you can provide that to us, it would be generally I think helpful to Members on both sides of the aisle. I assume that what we are talking about is a tax extender bill, and the question of whether it is going to be clean or not, and we would like to know that, because obviously those who come from dairy States have a great interest in this, and dairy districts; and those who care about the extender bill have an interest in it.

Mr. ARMEY. Mr. Speaker, again, if the gentleman will yield, I do appreciate your concern, but I think the gentleman from Michigan would understand that what we have is problems, problems where we try to devise a plan with respect to which we can get agreements and work out an opportunity to move the legislation. We are all interested, whether it be the work incentives bill or the tax extenders, any number of things.

In the process of working out these possible agreements, it has been proven in the past to be generally prudent to not make any public revelations about what our expectations, hopes and dreams might be while these Members, who have such heart-felt feelings, have a chance to look at the proposals, consider them, and decide whether or not they can come to agreement.

I can only tell the Members at large, we are making every effort to get by some of the difficult, what should I say, delays that are pending out there and get back to this floor with the legislation the Members are all interested in as quickly as possible; and we will do everything we can to give Members timely notification so that they will have a clear understanding of what it is they are being asked to come back for.

In the meantime, if I may, Mr. Speaker, we will have the floor available to take up special orders; and pursuant to that, we may even, in fact, recess subject to the call of the Chair. I again would encourage all of the Members to understand that they will be noticed later.

Mr. BONIOR. Mr. Speaker, can the gentleman from Texas give us a sense of timing? Are we looking at late afternoon, early evening, midnight? Where are we in terms of people planning for the rest of the day?

Mr. ARMEY. Mr. Speaker, if the gentleman will yield further, I do understand that, and I understand the frustration. The ability of working out agreements, as the gentleman knows, sometimes can be done fairly quickly, sometimes it takes more time. As soon

as we know that we have a course of action that can command the attention of the body at large, we will make that information available.

But it is possible, as long as Members want to continue working, that on into the evening we may find ourselves holding the opportunity available to continue the work this evening. As it proceeds, if it ever comes to a point where we can give Members sort of a definitive notion that the votes will be at this time or another, we will make every effort to quickly get the information to the Members.

Mr. BONIOR. Mr. Speaker, reclaiming my time, I would just say in conclusion to my friend from Texas, we obviously would like to cooperate. As well, I think it is in everyone's interest to finish the business of this session of this Congress. To the extent that we can be included in understanding what we will be doing and when we will be doing it, it will expedite that process. The majority will need unanimous consent from this side of the aisle to bring the extender bill up; and I am not going to speak for everybody on our side of the aisle, but we would be inclined to do that if we are part of the process. If we are not, if it is sprung on us without any notice and with provisions that we are not comfortable with, then we are going to run into difficulty later on.

That is why I am trying to, as the gentleman from Texas aptly described it, pull from him as much information as I can this afternoon.

Mr. ARMEY. Mr. Speaker, if the gentleman will yield, throughout this day, last evening, this morning, yesterday, and as we continue to work on this, we will continue to contact the minority leadership as we have been doing, including as many long-distance phone calls as are necessary to California and other places and as many fund-raising events that we may have to interrupt, we will keep our colleagues informed.

Mr. BONIOR. Mr. Speaker, I do not think that was necessarily necessary. That is the kind of thing that is going to keep us here longer than any of us would want.

So I would hope that we could refrain from those types of references. I did not get up here this afternoon and make reference to the comments of the gentleman before we left here for Veterans' Day that we would be here that weekend and Members had to change their schedule on both sides of the aisle. I refrained from doing that, and I would hope in the future that the gentleman from Texas would refrain from comments that he just made.

Mr. ARMEY. Mr. Speaker, I appreciate the gentleman.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD). The Chair will recognize Members for Special Order speeches at this time without prejudice to the Speaker's right to return to legislative business later today.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. EHLERS) is recognized for 5 minutes.

(Mr. EHLERS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

(Mr. DAVIS of Illinois addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

POINT OF ORDER

Mr. SMITH of Michigan. Mr. Speaker, point of order.

The SPEAKER pro tempore. The gentleman from Michigan will state his point of order.

Mr. SMITH of Michigan. Mr. Speaker, do I not have the right to ask unanimous consent for 1 minute prior to proceeding with the 5 minutes speeches?

The SPEAKER pro tempore. The Chair has already begun recognition from the 5 minute list, and would advise the Member from Michigan at this point to seek unanimous consent to be recognized from the 5-minute Members list and the Chair will be happy to recognize the gentleman. This is purely a matter of recognition, not a point of order.

Mr. SMITH of Michigan. But, Mr. Speaker, I only want 1 minute.

U.S. FOREIGN POLICY OF MILITARY INTERVENTIONISM BRINGS DEATH, DESTRUCTION, AND LOSS OF LIFE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, demonstrators are once again condemning America in a foreign city. This time, it is in Kabul, Afghanistan. Shouting ''Death to America,'' burning our flag, and setting off bombings, the demonstrators express their hatred toward America.

The United States has just placed sanctions on yet another country to discipline those who do not obey our commands. The nerve of them. Do they not know we are the most powerful Nation in the world and we have to meet our responsibilities? They should do as we say and obey our CIA directives.

This process is not new. It has been going on for 50 years, and it has brought us grief and multiplied our enemies. Can one only imagine what the expression of hatred might be if we were not the most powerful Nation in the world?

Our foreign policy of military interventionism has brought us death and destruction to many foreign lands and loss of life for many Americans. From Korea and Vietnam to Serbia, Iran, Iraq and now Afghanistan, we have ventured far from our shores in search of wars to fight. Instead of more free trade with our potential adversaries, we are quick to slap on sanctions that hurt American exports and help to solidify the power of the tyrants, while seriously penalizing innocent civilians in fomenting anti-America hatred.

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The most current anti-American demonstrations in Kabul were understandable and predictable. Our one-time ally, Osama bin Laden, when he served as a freedom fighter against the Soviets in Afghanistan and when we bombed his Serbian enemies while siding with his friends in Kosovo, has not been fooled and knows that his cause cannot be promoted by our fickle policy.

Sanctions are one thing, but seizures of bank assets of any related business to the Taliban government infuriates and incites the radicals to violence. There is no evidence that this policy serves the interests of world peace. It certainly increases the danger to all Americans as we become the number one target of terrorists. Conventional war against the United States is out of the question, but acts of terrorism, whether it is the shooting down of a civilian airliner or bombing a New York City building, are almost impossible to prevent in a reasonably open society.

Likewise, the bombings in Islamabad and possibly the U.N. plane crash in Kosovo are directly related to our meddling in the internal affairs of these nations.

General Musharraf's successful coup against Prime Minister Sharif of Pakistan was in retaliation for America's interference with Sharif's handling of the Pakistan-India border war. The recent bombings in Pakistan are a clear warning to Musharraf that he, too, must not submit to U.S.-CIA directives.

I see this as a particularly dangerous time for a U.S. president to be traveling to this troubled region, since so many blame us for the suffering, whether it is the innocent victims in Kosovo, Serbia, Iraq, or Afghanistan. It is hard for the average citizen of these countries to understand why we must be so involved in their affairs, and resort so readily to bombing and boycotts in countries thousands of miles away from our own.

Our foreign policy is deeply flawed and does not serve our national security interest. In the Middle East, it has

endangered some of the moderate Arab governments and galvanized Muslim militants.

The recent military takeover of Pakistan and the subsequent anti-American demonstration in Islamabad should not be ignored. It is time we in Congress seriously rethink our role in the region and in the world. We ought to do more to promote peace and trade with our potential enemies, rather than resorting to bombing and sanctions.

The SPEAKER pro tempore (Mr. LAHOOD). Under a previous order of the House, the gentleman from Connecticut (Mr. MALONEY) is recognized for 5 minutes.

(Mr. MALONEY of Connecticut addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. FOSSELLA) is recognized for 5 minutes.

(Mr. FOSSELLA addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. ROHRABACHER) is recognized for 5 minutes.

(Mr. ROHRABACHER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

SAVING 1 PERCENT OF THE FEDERAL BUDGET TO SECURE SOCIAL SECURITY

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from Colorado (Mr. SCHAFFER) is recognized for 60 minutes as the designee of the majority leader.

Mr. SCHAFFER. Mr. Speaker, I want to take this opportunity in this 1 hour special order to invite my colleagues in the majority conference to come join in our discussion of our accomplishments, and to also define somewhat the negotiating that is going on right now between the Congress and the President with respect to getting our budget resolution passed and getting the final agreement nailed down.

Before I do that, I want to talk about one of the announcements that is coming out tomorrow from the Department of Education. Over at the Department, a number of us paid a visit to them just a couple of weeks ago when the Secretary of Education had assured the country, certainly the Congress and the White House, as well, that it was impossible to find this one penny on the dollar savings that we hoped to secure in order to save social security and prevent the President's raid on the social security program.

The Secretary of Education said there is no savings to be found in the administration at the Department of Education, that the agency is run efficiently and is run in the most lean manner possible.

So the three of us Members of Congress who walked down there had a difference of opinion. We physically showed up on the premises and started going office to office to find out if we could not help the Secretary find that penny on the dollar, and lo and behold, we found a number of places where it would be wise to look.

We found an account called a grant back fund, for example, that has about $725 million in there that is not spent in the way that the statutes have defined. We also found some duplicate payments to the tune of about $40 million. We have found several other things since then.

The most remarkable thing we found is that going back to 1998, the Department of Education's books are not auditable. In fact, tomorrow the Department of Education will be receiving notification from the auditors, who are charged with auditing the Department of Education, to finding out where this money goes, they will be receiving this notice claiming, showing, certifying that the Department of Education's books are not auditable.

This is a remarkable revelation coming out of the Department, especially at a time when the Secretary ran over here immediately after we started talking about saving money and telling us with certainty that there is no savings to be found in the Department of Education. He has no basis to make such a claim. His books over at the Department of Education are not auditable.

Mr. Speaker, I just had an opportunity to visit some schoolkids in my district on Monday. I visited three schools. Children in America's schools throughout the country are much like those children in my district in Colorado. They understand accountability. They understand completing assignments on time. They understand completing the work according to their requirements and being held accountable.

When a teacher says a report is due on a certain day, the kids understand that if they do not turn it in on that day, they will get an F. The Department, when they are supposed to audit their books and certify to the Congress that their books are clean, that they have balanced, that they are auditable, we should expect them to follow through. The Department of Education has failed to accomplish that objective. They will tell us tomorrow, we cannot find where the $120 billion in taxpayer money has been spent and how it has been spent.

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

Mr. SCHAFFER. I yield to the gentleman from Arizona.

Mr. HAYWORTH. I thank my colleague for yielding, Mr. Speaker. I just would ask my colleague, when were the reports or when was the audit or financial statement from the Department of Education due? Was it not March, or sometime earlier this year?

Mr. SCHAFFER. That is right.

Mr. HAYWORTH. So now it is November. They received an incomplete grade, basically, for lo these 9 months, and tomorrow, I guess sotto voce, in low, spoken terms, the Department of Education is going to admit that it has made an F in terms of fiscal responsibility, and even more than fiscal responsibility, fiscal accountability. Mr. Speaker, there is no greater evidence that we take the right approach to get dollars to the classroom, rather than deal with the care and feeding of a Washington bureaucracy.

I would just ask my friend, the gentleman from Colorado, and first of all, let me commend him, sir, and let me also commend my colleague, the gentleman from Michigan (Mr. HOEKSTRA) and my colleague, the gentleman from Arizona (Mr. SALMON) for making that trip 2½ weeks ago to the Department of Education.

I understand, and now help me on this, there is, in essence, a fund of cash, some have described it as a slush fund, to the tune of how many millions, $725 million?

Mr. SCHAFFER. One of the reports on that fund suggested that there has been in the past, recently, about $725 million. The Secretary says it is a little bit less than that, but still there are hundreds of millions of dollars, even about by the Secretary's account. The bottom line is they are not real sure.

Mr. HAYWORTH. Again, so we can try to get a handle on the sums we are talking about, money that could be well spent in America's classrooms helping teachers teach and helping children learn, annually we are looking at an appropriation for that cabinet level agency of $35 billion?

Mr. SCHAFFER. A $35 billion annual appropriation, which is this year's appropriation, but on top of that there is another $85 billion in loans that that department manages, so a grand total of $120 billion is managed by the Department of Education. It effectively makes it one of the largest financial institutions in the world.

Mr. HAYWORTH. So forget, if my friend would yield further, forget the colloquialism about an 800-pound gorilla. We have a $120 billion sum of money that in essence is unaccounted for from the department in Washington, D.C. charged with teaching responsibility and the three Rs.

Maybe that is the fact, Mr. Speaker. We talk about reading, writing, arithmetic. With all due respect, Mr. Speaker, to our friends in the Department of Education, we need to teach a fourth R, responsibility, and accountability, and counting, with a C, to be able to actually handle their books.

I think it is important to inform the body, Mr. Speaker, based on current events, that we do welcome back to the Chamber the House minority leader,

the gentleman from Missouri (Mr. GEPHARDT). I had a chance to welcome him. I am sorry he was not here yesterday to be involved in the budget negotiations. I understand he was fundraising on the West Coast.

We certainly find it interesting, those denizens of campaign finance reform, busily raising campaign cash. But we welcome him back.

Mr. Speaker, if I could inform my colleagues, I understand that substantial progress has been made toward a budget agreement. Indeed, the President of the United States and the Speaker of the House have agreed to across-the-board savings. Sadly, the problem comes in this Chamber, because of an inability of the minority to join with us to find those across-the-board savings.

We have advocated simply finding savings in one penny of every discretionary dollar spent. We think that is a way to come together, and we understand there are priorities on the left, there are priorities on our side, the other body has priorities, and the administration has priorities.

Once we come to a basic agreement, which apparently has been done, the best way to fit in the amount of overspending or what would be overspending and a raid of the social security trust fund, the best way to accommodate that spending without raiding the social security trust fund is to simply call for across-the-board savings of one penny on every dollar.

Mr. Speaker, we understand the President of the United States has given his word to the House Speaker, and I would hope that our friends on the other side of the aisle could reach an accommodation with the administration for a simple, across-the-board savings.

I yield to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I appreciate my friend for yielding to me.

Mr. Speaker, I want to bring this back to the perspective of American families. The gentleman has a family, and he and his wife have to do what Libby and I do, sit down at the kitchen table quite frequently and decide what they are going to cut out. Do we really need the new curtains this month? Maybe we can postpone buying the new mattress for the bed, and things like this; that if we can postpone a spending decision, we will.

All we have asked the Washington bureaucrats to do is think like the American family. Here is $5, hard-earned money. The gentleman's money is as good as mine. He works hard to pay it, the American people work hard to pay it. All we are asking the bureaucrats is, take this $5 that you have gotten from hard-working Americans and find this, one nickel. Just get one nickel out of it. That is not hard to do.

When we sit around at our kitchen table, it is not a nickel we are looking for. We have to cut out $2 or $3 from this $5, and it is not that hard to do.

The administration this year proposed buying an island off of Hawaii for $30 million. What was the purpose? For duck breeding. The only problem was, only 10 ducks took them up on this honeymoon package offer, so there are 10 ducks who would use this facility for $30 million. Fortunately, Congress persuaded the administration to back off this, but this is an example of something that is absurd.

What about the Pentagon? The Pentagon lost one $1 million rocket launcher. Now, talk about gun control, does it not bother this administration that we have lost a rocket launcher? I am not sure what can be done with a rocket launcher, but I do not know why you would lose one, and who would want to take it?

What about an $850,000 tugboat that disappears? Where do you hide a tugboat? How do you lose a tugboat? Where can you put one? It is just ridiculous, the examples go on and on and on. All we are asking this administration to do is go back and cut out the waste, fraud, and abuse in the budget.

Mr. SCHAFFER. I would say to the gentleman, it is my understanding that the President has agreed as of today that there is enough savings for this across-the-board savings. He has realized that there is a substantial amount of waste, fraud, and abuse in government that we can reduce, that we can effectively save; find less than a penny on the dollar, is what we are down to now, but that we can save this money. We can save the penny on the dollar without affecting the important services of government.

The President agrees now, but for some reason the deal is not going forward. If anyone has any insight on this, I understand that it is the minority leader on the Democrat side who just arrived back from his fundraising mission in California who has come and disagrees now with the President and the Republicans that this money can be saved in government. That is why we are at an impasse.

Mr. KINGSTON. One of the reasons why we said to the bureaucracies, look, you spend, say in the case of the Pentagon, $240 to $260 billion a Year.

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I think USDA, the agriculture folks, get about $64 billion a year. What we are saying to them is they have capable administrators, they can figure out where the waste is. We are not going to dictate it top down from our body saying these are the ones to cut. We expect they know where their waste is and they can ferret it out, and we get criticized for not being more specific where the money should come from. We are being flexible, because we believe that those who are closest to it know where the waste is.

Mr. HAYWORTH. The gentleman from Georgia raises an important point. When we are talking about finding savings of one penny on every dollar of discretionary spending, we are not, I repeat, we are not talking about cutting Medicare, Social Security, Medicaid, any of those vital programs that help the truly needy and those who have earned that type of success and that type of largesse. What we are talking about is saving the Social Security funds for Social Security and Medicare exclusively.

The best way we can do that is for every discretionary dollar spent, and goodness knows there are billions of them, invoking the memory of the late Carl Sagan, ''billions and billions'' of dollars. Let us find a penny on every dollar.

The gentleman from Colorado (Mr. SCHAFFER) asked the question, why is it apparently that the Minority Leader is reluctant to accept an agreement reached by the President and by the Speaker of the House? Well, let us give the Minority Leader the benefit of the doubt. I understand what it is like. I caught what is called in common parlance the red-eye flight back Monday from the West Coast to be here for votes. I understand jet lag and the taxing time on one's body. And perhaps it is a situation where the administration is briefing the Minority Leader.

Mr. KINGSTON. Mr. Speaker, I ask the gentleman to wait. I know that the gentleman from Illinois (Mr. HASTERT), Speaker of the House, was here all weekend. Is the gentleman saying that the Republicans were the only people who stayed in town to protect Social Security?

Mr. HAYWORTH. I would not suggest that for everyone on the other side of the aisle, and certainly administration representatives, and I know representatives from the Committee on Appropriations, were here. But, apparently, the House Minority Leader, the man in whom Members of the opposition party place their trust and the responsibility of leadership, saw fit to leave town instead of being involved in the budget negotiations. It brings all of this talk about a do-nothing Congress, it rings kind of hollow for those who, I suppose in good faith, want to see a solid record, to leave town on a fund-raising trip for campaign cash.

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

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

Mr. OBEY. Mr. Speaker, I thank the gentleman for yielding to me. I have been in every single one of those negotiation meetings. And last night, the night in question, I talked to the gentleman from Missouri (Mr. GEPHARDT) twice on questions involving negotiations. I want to tell what is dividing us at this moment. What is dividing us at this moment is one remaining question.

The Republican side, after having spent $17 billion of Social Security money, the Republican side is now asking for a ''let's pretend'' fig leaf so that they can point to a tiny, minuscule across-the-board cut as their ''let's pretend'' indicator that they did not touch Social Security.

Mr. Speaker, we, in return, are asking if they want that, we are asking them to do something real. We are asking to take whatever money the government might earn in any suit against the tobacco companies, which could be up to $20 billion a year, and we are asking the Republican side to deposit that money into the Social Security Trust Fund and the Medicare trust fund. That would extend the life of those funds on average by 3 years. And what we have gotten from the Republican side is a flat ''no,'' which means apparently that the Republican leadership would rather protect their friends in the tobacco industry than protect Social Security and Medicare. That is the truth.

Mr. KINGSTON. Mr. Speaker, reclaiming the time from the gentleman from Wisconsin, let me first of all thank the distinguished gentleman for being here——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. LAHOOD) The gentleman from Georgia (Mr. KINGSTON) will suspend. The gentleman from Colorado (Mr. SCHAFFER) controls the hour, so the gentleman from Colorado is recognized to control the hour.

Mr. SCHAFFER. Mr. Speaker, I yield to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, let me first of all thank the distinguished gentleman from Wisconsin (Mr. OBEY), the ranking member, for being here this weekend. I think that is very important. I wish he was the decisionmaker on their side. Unfortunately, the decisionmaker, the Minority Leader, was not here over the weekend.

The proposal for the tobacco, I do not know where that has been all year long. We have been in session since January. This is the first I have heard of it. I am not saying I am the most informed Member of Congress. Maybe my colleagues have heard of it. In fact, I would like to see the hand of anybody in here who has heard of it, and pretty much no hands go up.

It is a new proposal. I am glad to know it is out there. But the reality is we are going to leave town maybe not tomorrow, maybe not the next day, and maybe not the next week, but when we leave town, there will be $160 billion untouched in the Social Security Trust Fund, and that never happened under the Democrat majority.

Mr. HAYWORTH. Mr. Speaker, would the gentleman yield time to me? I thank the gentleman from Colorado and the gentleman from Georgia. I am sorry that the gentleman from Wisconsin (Mr. OBEY), the ranking minority member of the Committee on Appropriations is no longer here with us, because I think we have an honest disagreement in terms of the way he portrayed what we have done to save the Social Security fund, which we pledged to save, in stark contrast to the President who came in January and said let us save 62 percent of the Social Security surplus and then spend close to 40 percent on new government programs.

I did not hear from the gentleman from Wisconsin, was he proposing new taxes on the working poor to go to this? I did not hear that side of what he was talking about in terms of the tobacco settlement, so I am uncertain. If he was proposing new taxation on the working poor and on working Americans, I think there is justifiably a problem.

Mr. OBEY. Mr. Speaker, would the gentleman yield for an answer to that question?

Mr. SCHAFFER. Sure, we will yield for an answer.

Mr. OBEY. Mr. Speaker, the gentleman well knows this has nothing whatsoever to do with taxes. What we are suggesting is if there is a suit by the Justice Department successfully concluded, which requires the tobacco companies to pay back into the Federal Treasury money which we would not have paid for illnesses caused by tobacco if they had not lied to the country for 20 years, that if there is a recovery of that kind of suit, that that money would go into Social Security and Medicare.

Mr. Speaker, the gentleman should not pretend this has anything to do with taxes. He knows well it does not.

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman. I think he is setting up the parameters of something that is very interesting. If every bit of that money would go to the Social Security and Medicare trust fund instead of to the trial lawyers, if the money would truly go for public health, then I think there may be an area of agreement. I welcome that type of light and I welcome the passion that the gentleman from Wisconsin brings.

But the fact remains, the situation that exists today is one in which we are trying to find a way to deal with priorities and to find savings. Again, we are talking about simple savings of 1 cent on every dollar of discretionary spending, and to defend both the priorities of the left and our own priorities, as well as the priorities of the administration, that would be the simplest way to solve the problem.

Mr. KINGSTON. Mr. Speaker, let me say this about the proposal of the gentleman from Wisconsin. As it was explained and presented right now, I think it makes sense. I think that as I understand it, we are talking about if there is a settlement, put excess money into Social Security. I think that is a step in the right direction. I have no problems with that.

I hope also on that side we can get them to join us in finding that measly little penny for each dollar. If we can do that, I think we can leave town, again, with the $160 billion in Social Security, the surplus left intact, unraided. I certainly welcome the opportunity to work together.

Mr. SCHAFFER. Mr. Speaker, I yield to the gentleman from New York.

Mr. FOSSELLA. Mr. Speaker, I have been listening to this interesting dialogue. And let me just add, not to get off the path, but clearly I think Americans recognize inherent waste in government. We should challenge the bureaucracies, we should continually challenge the Federal agencies to reduce and eliminate waste, just as any private business does, just as any family does.

But we are getting off the page to the degree that the clear philosophical difference between the groups here in Washington, between the parties, between this Republican Congress and the White House, comes down to faith and power and freedom. And by that I mean we believe and have faith in the American people who work hard every day, sometimes two and three jobs, to keep more of their hard-earned money to invest back in themselves, in their families, in their small businesses, in the economy so that we can have a growing and prosperous economy. Something that was laid back in the 1980s when Ronald Reagan promised a tax cut. Practically every person who believed in big government said no. Guess what? Tax cuts worked.

Secondly, control. Here there are a number of individuals who believe that control by Washington is better than family control or business control. By that I mean freedom. If we truly believe in the notions of what this country is built on, freedom, individual freedoms, political and economic freedoms, then we shall continue to fight for those Americans who believe in that principle, when the alternative is that the White House wants more taxes or more spending.

Before that, well, the problem really has been, the reason why these appropriations bills have been vetoed is because they wanted more money. Well, where is that money going to come from? That is going to come from hard-working Americans. I encourage the gentlemen to continue in this dialogue and continue to work for the hard-working taxpayers of America.

Mr. HAYWORTH. And I think it is important to make this point, because I think we would be remiss if we did not for purposes of total candor, intellectual integrity and a good sense of history, again, I welcome the gentleman from Wisconsin (Mr. OBEY) the ranking member of the Committee on Appropriations, and obviously he has passionate feelings and they are deeply and honestly held. But for the record we should indicate and point out that when my friend from Wisconsin chaired the Committee on Appropriations, when my friends on the other side of the aisle were in charge of this House, they spent huge sums of Social Security money for bigger and bigger and bigger government programs.

That framed their priorities. And so I welcome any type of alternatives they might offer to truly help us preserve the Social Security fund 100 percent for Social Security. I would make this

point because the gentleman from Wisconsin raised this topic. He said $17 billion were being raided out of the program. That begs the question, Mr. Speaker, to help us find the money, why do the minority appropriators not join with the gentleman from Georgia and the others on the Majority side to find the savings? All we are asking is one penny on every dollar of discretionary spending. Because, Mr. Speaker, it is obviously that a penny saved is retirement secured.

Mr. SCHAFFER. Mr. Speaker, reclaiming my time, I too appreciate the gentleman who joined us earlier. But as the Associated Press mentioned, and I want to refer to this Associated Press quote: ''Democrats admit that there is an effort to raid the Social Security Administration over at the White House,'' and here in Congress as well. ''Privately, some Democrats say a final budget deal that uses some of the pension program's surpluses would be a political victory for them because it would fracture the GOP by infuriating conservatives.''

Well, it would infuriate conservatives. The Associated Press quote from one month ago is one that I think accurately states and reflects the differences of opinion that we have going on here in Washington, D.C. There is a side that truly believes it is in the best interests of the country to raid that Social Security program, and we said no. We said enough is enough. After 30 years of raiding Social Security and sinking this country deeper and deeper in debt year after year, there is no excuse. We are spending more money than the country has. And, by golly, if every agency had, if every Secretary would be willing to join us in just going through their administrative budgets and finding that one penny on the dollar to help avoid the White House raid on Social Security, think of how far that would go to deliver education services to children at the school level rather than soak those dollars up here in Washington at the bureaucratic level. Think of how far that would go to shoring up the Medicare program rather than watching those dollars siphoned off and sidetracked on administrative expenses and bloated bureaucracy. Think of how far that would go for programs like transportation, national defense, right on down the line. There are so many priorities that this country has and we can fund them without succumbing to the Democrat motivation to dip into Social Security. We can work hard together as a Congress, both parties.

I think the President finally understood this. When the President today agreed to an across-the-board reduction in administrative costs, waste, fraud and abuse in order to avoid the Social Security raid, I think he finally realized that the majority in Congress, that we are serious. We are not backing down on this particular point. The only reason we do not have a budget agreement as of today is because of certain Members in the minority side cannot see eye to eye with the President right now.

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

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

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Mr. EDWARDS. Mr. Speaker, let me point out that is not the only reason we do not have a budget agreement today. One of the reasons is because the majority party in the House for 8 months proposed a trillion dollar tax cut that did not work, that went to the richest families in America, that assumed we would spend $198 billion less on national defense than President Clinton's budget proposals over the next 10 years. The American people rejected it. The numbers did not work.

I am amazed to sit here and hear my colleagues talk about not raiding Social Security by reducing four-tenths of 1 percent of the discretionary programs when they offered a trillion dollar tax cut that was going to devastate our ability financially to protect Social Security. I welcome the debate.

Mr. SCHAFFER. Mr. Speaker, reclaiming my time, I realize that there is a difference of opinion. The side of the gentleman from Texas (Mr. EDWARDS) does not support tax relief. Our side does.

For an opinion from a gentleman who has led the Committee on Ways and Means in trying to provide this middle-class American family tax cut, Mr. Speaker, I yield to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank the gentleman from Texas (Mr. EDWARDS) for pointing out this key distinction and difference. Yes, unapologetically, I believe hard-working Americans should hold on to more of the money they earn instead of sending it to Washington. Yes, $1 trillion out after $3 trillion projected surplus over the next decade is reasonable. Because $2 trillion are going to save Social Security and Medicare, and the other trillion dollars, as we can see from the institutional pressure of the other side, they want to spend that money. They would rather have Washington spend that money. Mr. Speaker, I think that is the wrong thing to do. All the American people should hold onto their money.

As to the canard of tax cuts for the wealthy, I would simply point out that all working Americans who pay taxes should have a right to have their money back. Certainly my friends on the left do not impugn initiative and success. They are not coming to the floor to do that. But, again, it begs the question.

Mr. Speaker, our friends on the left should join with us if they bemoan or belittle four-tenths of a cent in terms of reductions. They should join with us. If they do not think it is a big deal, then join with us and let us reach an agreement.

Mr. SCHAFFER. Mr. Speaker, I yield to the gentleman from Connecticut (Mr. GEJDENSON) who is here and would like a chance to defend his party's position.

Mr. GEJDENSON. Mr. Speaker, I appreciate the gentleman turning to the right to talk to his gentleman on the left. But if we want to get this clear, let us remember why we are here. One, the gentleman's party has never really supported Social Security and Medicare. At the beginning of the year, the gentleman recommended that a trillion dollars be cut in taxes, noble a cause as it is. Everyone, including those who are going to get the tax break, recognize that would undermine our ability to deal with Social Security and Medicare.

We have not as a Congress dealt with drug benefits. We have not dealt with fixing Medicare. We have not dealt with Social Security. But what we have here is a last minute attempt by the majority party to blame everybody under the sun for their failure to get a budget together and for their failure to come up with solutions for these problems.

So my colleagues can have a trillion dollars for tax cuts, and that did not endanger Social Security. But now they are trying to cover themselves with those very Social Security recipients, because their own polls say they dropped 12 points with senior citizens when they tried that game.

Mr. SCHAFFER. Mr. Speaker, I yield to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, we certainly would invite our friends on the left to apply for their own hour of special order if they would like to continue the dialogue.

But of course one of the oldest political tricks in the book is to try to change the subject. We appreciate that, and we understand their inherent distrust of allowing the American people to hold on to more of their money, not to mention, unfortunately, their mistaken notion that you cannot actually increase government revenues by allowing people to save, spend, and invest more their own money that leads to economic success, that leads to more jobs, that leads to prosperity, and in turn brings in more receipts in taxation to the Federal Government. But that is fine. It is nice to have a catchy slogan.

The fact remains that there is a very simple way to deal with the question we face right now. That is to save one penny on every dollar of discretionary spending. My friends who pledge fealty to Social Security should note this, and let us note this for the RECORD, Mr. Speaker, just for historical accuracy, over three-quarters of the Republicans serving in Congress at the time of the Social Security Act supported Social Security. So all the canards and misinformation and perhaps confusion on the left can be cleared up.

Mr. SCHAFFER. Mr. Speaker, I yield to the gentleman from New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Speaker, I want to allude back to a comment that was made earlier; and that is, when the Republican House passed a tax cut for the American people, one that the American people deserve in times of surplus, in times of plenty, money that they rightfully earn, and when the Republican Senate passed the tax cut for the same reasons, it was not the American people that rejected the tax cut, it was the White House that rejected the tax cut.

We will continue between now and next year or as long as it takes to fight for tax relief for the American people, as the gentleman from Arizona (Mr. HAYWORTH) pointed to, because it means more jobs, because it means economic growth, because it means getting money out of Washington, because when money is left on the table here, it is spent and it is wasted unnecessarily.

So, yes, it is a healthy debate, and the American people deserve the healthy debate to see the differences between those who do not believe in tax relief, between those who believe that taking hard-earned money and keeping it and spending it as they see fit is the right way as opposed to a clear and, I think, strong distinction on the other side, and that is this Republican Congress who believe that the American people work too hard to send too much money to Washington and not sending enough back this return.

So I commend the gentleman for continuing to fight for the American people and engaging in this debate. Perhaps what we need is a change of personnel in the White House so that when a Republican House passes a tax cut, and a Republican Senate passes a tax cut, it will be signed into law, and then, and only then, will the American people get the tax cut that they truly deserve.

Mr. SCHAFFER. Mr. Speaker, I yield to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I want to make sure that we all go over and talk about this tax reduction and the budget. But one has to do it going to the lectern behind the gentleman from Arizona (Mr. HAYWORTH), right in front of our distinguished Speaker pro tempore, the gentleman from Iowa (Mr. NUSSLE). Because at that position in this chamber in January, the President, in his historic State of the Union Address, said let us spend 38 percent of the Social Security surplus. He said let us preserve 62 percent and then outlined spending of 38 percent.

Now, we stopped that debate to say, do you know what, Congress? Republican and Democrats have always raided that cash cow called the Social Security Trust Fund. Let us stop doing that. Let us protect and preserve grandma's pension. Let us do not do that. That was one of the most significant things about this Congress.

But then the second part of our budget, along with preserving 100 percent of Social Security, was to pay down the debt. Our budget had $2.2 trillion in debt reduction.

Then, thirdly, and most importantly, because this is a triangle, this is a sequence, Social Security, debt reduction, and then a trigger. Maybe this is what the Democrats did not like, but the trigger said, after you have taken care of Social Security, after you have taken care of debt reduction, then you have tax relief, because the American people are entitled to their change.

If one goes to Wal-Mart and one buys a $7 hammer, the cashier does not load one's grocery cart up with more goods. She gives one one's $3 back.

That is all we are saying is that, after we have paid Social Security obligations, debt reduction obligations, let the American workers have their overpayment back. It is so simple. It is an equity question for American workers. I am not sure why the liberals on the other side do not understand that.

Mr. SCHAFFER. Mr. Speaker, it is a simple question that I think most Americans would certainly agree with, because most Americans are oriented towards savings. They do not want to waste their hard-earned dollars when it comes to their own family budgets, and they do not want to send more money to Washington than we need here in Washington in order to effectively run the Government. That is why tax relief is such an important topic and so important to pursue it.

I want to take Members through a brief economic history lesson on the history of this Congress raiding the Social Security fund. This graph goes all the way back to 1983.

Mr. KINGSTON. Mr. Speaker, the gentleman said the history of this Congress, the history of the United States Congress.

Mr. SCHAFFER. The United States Congress, correct, Mr. Speaker.

Mr. KINGSTON. Because this Congress stopped the raid, Mr. Speaker.

Mr. SCHAFFER. Mr. Speaker, I appreciate the gentleman correcting me.

Going back to 1983, one can see the growth in borrowing from the Social Security fund in order to pay for the rest of government.

What this big pink blob represents is Social Security debt. This is $638 billion. This is just principle, by the way. When it comes to actually paying this back, there is a certain amount of interest that we will be responsible for paying as well.

One can see this spike right up here is about as bad as it got, about $80 billion-a-year raid on Social Security. That was the year that Republicans were reelected into the majority here in Congress. One can see that we decided to turn things around. This dramatic drop that one sees going into 1999 is the result of a more fiscally responsible approach to budgeting here in Washington.

We did not cut spending, really, in real dollars in Washington, but we did dramatically slow the rate of growth in Federal spending so that the American economy can catch up. The result is, here in 1999, we are no longer borrowing from the Social Security fund in order to pay for the rest of government.

But this is a point that the President up until today did not want to be. This is a point where many of our colleagues on the other side of the aisle, they do not want to be here either. See, they want to continue borrowing from Social Security so they can pay for a lot of the things that they think are important but that the American people believe we probably do not need.

This is a remarkable graph, because it shows here in the final year, it almost looks like the end of the graph here, but this is a 1-year decline in Social Security borrowing that we see here. This is a picture of what we have accomplished in Congress as Republicans taking the majority in the House and the Senate and standing up to the White House.

Even the President understands that borrowing from Social Security needs to end. It ended this year. We are proud of that. We want to see this line even further drop below the baseline here.

Mr. Speaker, I yield to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I want to make a couple of points. First of all, I do not think, Mr. Speaker, we can reiterate this enough. Because last month, the folks who do all the calculations, the budgeters in this town took a look, and the reason that chart exists as it does today is because all the folks who deal with all the economic forecasts and who take a look at the tax receipts coming in and the money being spent going out evaluated what transpired in the last fiscal year. What they said was nothing short of historic and cannot be repeated enough.

They found that, for the first time since 1960 when I was 2 years of age, when that great and good man Dwight David Eisenhower resided at the other end of Pennsylvania Avenue in our executive mansion as President of the United States, for the first time since 1960, Congress balanced the budget, did not use the Social Security Trust Fund, did not raid those funds for more spending, and, moreover, generated a surplus.

My friends who joined us, our friends who were on the political left tend to bemoan any type of spending reduction. The other reason, and I know the gentleman from New York (Mr. FOSSELLA) and the gentleman from Colorado (Mr. SCHAFFER) agree with me, you see the other reason to make sure Americans have more of their hard earned money back in their pockets. It is a simple fact, Mr. Speaker, that if the money is not given back to the people who earned it, there are special interests here in Washington who are more than happy to spend it.

So we should really thank the President for at long last coming to our

point of view for saying, in the wake of his State of the Union message, let me reconsider. Instead of 62 percent, I will go along with the majority party, save 100 percent of the Social Security. That is a victory for the American people.

I thank my friends on the left, despite their vociferous opposition here earlier in this special order to tax relief for going on the RECORD with us. Do my colleagues realize, Mr. Speaker, again last month, when we brought the President's plan to raise revenue through an increase in taxation and fees, not a single Member of this institution voted in favor of the tax increase.

So I appreciate the fact that the President was willing to let the will of the people through the House of Representatives speak. I think that is a positive point.

Now, today, we hear that the President of the United States, Mr. Speaker, agrees with the Speaker of the House that there can be an across-the-board spending reduction.

The one part of the puzzle that we hope we can work out, and we are glad the minority leader returned from the west coast and his political fund-raising trip, because now he can join the Speaker of the House at the table and agree to across-the-board savings so we can make sure that hands stay off the Social Security surplus.

Mr. SCHAFFER. Mr. Speaker, the leader of the Democrat party was invited to the meetings with the President and the Speaker and the majority leader in arriving at these decisions. Can the gentleman from Arizona (Mr. HAYWORTH) tell us one more time why was the gentleman from Missouri (Mr. GEPHARDT), the minority leader not here yesterday?

Mr. HAYWORTH. Apparently, Mr. Speaker, it was my understanding that the minority leader was on the West Coast raising campaign cash. It is interesting to hear the rhetoric about campaign finance reform. But I guess he has to do what he felt was important. That is where his priorities were. I am sure he can address the House and our colleagues, Mr. Speaker, about that.

Mr. SCHAFFER. Mr. Speaker, as for me, I am glad the minority leader is back here to join us and help get to work, and maybe we can get this budget passed and move on, and the country can be safer knowing that the Congress has gone back home.

Mr. Speaker, I yield to the gentleman from New York (Mr. FOSSELLA).

Mr. FOSSELLA. Mr. Speaker, earlier the gentleman from Colorado (Mr. SCHAFFER) talked about the Department of Education. I guess the issue there again is what might have been. See, when it comes to education, I do not think there is a Member of this body who truly does not believe that we need to invest in education. But there are clear, again, distinct differences between how the different sides approach the issue.

See, it is a national issue. Education is clearly a national issue. As someone who wants to see the young people succeed and to grow and to prosper, as the gentleman from Arizona and the gentleman from Colorado I am sure agree, the same time one also agrees that what works in Staten Island and Brooklyn, New York, is different than what works in Arizona. It is different from what works in Colorado.

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So I think what we have been trying to get across to those who defend the status quo, and those individuals are folks here in Washington who just want all the money and who would place a lot of strings and mandates on the States and localities, what we have been trying to say is let us commit ourselves to adequate funding for education but allow the local school boards, the parents, the teachers at PS4 in Staten Island, the teachers at PS16 on Staten Island, let them, together with the principals, with the teachers, with the parents who know those kids and who know their needs, let them make those decisions, not someone here in Washington who does not know anybody in those classrooms.

So, again, we must continue to force the issue and to say that we are committed to education, but allow those local parents, the local teachers and principals the flexibility. Because what may work on Staten Island, what the needs are on Staten Island, are clearly, I believe, different from Arizona, Colorado, and the other States.

Mr. SCHAFFER. Mr. Speaker, I understand the gentleman over here wants more time, however, we still have some more points we need to make. If we are able to, I will yield later.

At the moment, I want to first make one point in reference to the gentleman from New York and his observation, and I want to make that point with this apple. Most Americans desperately want to see their schools well funded, and they are willing to invest the money that it takes in order to see that schools have the resources to run effectively. But if we look at this apple in terms of the education dollar that an American taxpayer sends to Washington, they would like to believe that this apple, this dollar, actually makes it back to a child's classroom. In reality, here is what happens.

First, we have to realize that the cost of paying taxes alone, just complying with the IRS and the Federal Tax Code, takes a certain bite out of that apple just to begin with. So if we take that section out, just accounting for the Internal Revenue Service for the cost of compliance with the tax codes, we already have a bite taken out of that education dollar.

Then, when those dollars come here to Washington, the chances are very good, and given the debate that we are having today it is easy to see, that some of those dollars can be misdirected and spent on programs that really have nothing to do with education. They may be housed in the Department of Education, they may be housed in another education-related agency, but those dollars are not really appropriated in Washington in a way that even gets close to children.

Then there is the issue of the expense associated with the United States Department of Education. Again, a $120 billion Federal agency that is reporting as of next Thursday, to go back to this graph here, reporting tomorrow that its books for 1998 are not auditable. They do not know, they cannot tell the Congress exactly how they spent their money in 1998 and in subsequent years. So we have that agency, which consumes three office buildings downtown here, and they are full of good conscientious sorts of folks, but people who consume the education dollar and prevent those dollars from getting to the classroom.

So, now, when we talk about the bite that the Department of Education takes out, my goodness, it is a huge chunk of the education dollar. So here is what we are talking about that is left on the education dollar to get back to children and classrooms.

On top of that, we have States that have to comply with Federal rules and regulations that are attached with a small percentage of these Federal funds remaining, and the States have to hire people just to fill out the Federal paperwork in order to answer the Federal Government's rules and expectations on the money. And by the time the education dollar actually gets back to a child, this is about all that is left. It is a shame.

What we are trying to do here in the Republican Congress, by demanding the accountability, by demanding that the waste, fraud, and abuse be eliminated, by trying to guarantee that that one penny on a dollar is saved and not squandered, we are trying to make this education dollar whole again so that we get dollars back to the classroom, and not just part of an apple, not just part of an education dollar. Our children deserve better than this.

Mr. Speaker, I yield to the gentleman from New York.

Mr. FOSSELLA. Well, Mr. Speaker, as the expression goes, an apple a day keeps the bureaucrat away.

But the gentleman is right. When I go back to Staten Island or Brooklyn, and I was there a couple of days ago in some schools, we hear from these parents and these teachers, who are in a better position to make these decisions for the children, whether the class size is 20 or 30 kids. Wherever they come from, they are there for one reason, to learn and to succeed. We just happen to believe that that money is better spent back in Staten Island and Brooklyn and those decisions are better made in Arizona or in Colorado or in Georgia.

Mr. Speaker, generations of children will go through schools and not know the people in Washington who are determining how their education money

is spent, with those mandates and with the strings attached. We are trying to create flexibility. There is nobody in this House, and I would be amazed if somebody were to come to this floor and in good faith argue that there is somebody in this House who is not for education and not for the children of America, for them to prevail and succeed, but there is a definite distinction between those who want control, those who believe that the money is better spent in Washington, those who believe that decisions are better made in Washington as opposed to the folks back home to Staten Island who say give us the tools, give us the resources, give us the money, give us the flexibility to determine what is going to be best for the kids in our classroom. And that is the same in PS18 or PS104 or PS36 back in Staten Island and Brooklyn, and I am sure that is the same in Arizona where the gentleman is from.

Mr. SCHAFFER. Mr. Speaker, I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Speaker, I thank the gentleman, and I just want to say, as the son of an educator and the brother of a teacher, I really appreciate what the gentleman is saying about teachers because they really do need more control over the classroom.

I am going to yield the floor after this, in terms of my portion, but I just wanted to say this. In the 106th Congress, the Congress we are going to be adjourning, we always talk about winners and losers. Well, let us talk about who won.

For the American consumer, we revamped a 65-year-old banking law to give American families more choices in borrowing, saving money, and buying insurance.

For the rural TV watcher, we have increased the access to local news programs. And if my colleagues think that that is not important, they should think what happens when the people are trying to get hurricane updates.

For the American taxpayers, we said no to the President's trying to increase taxes. On a bipartisan vote we said no to the President's $42 billion increase in new tax dollars.

For future generations, we have committed to paying $130 billion in debt reduction; and already we have paid down $88 billion.

For all Americans, we have increased military morale by increasing their pay 4.8 percent. We have increased funding for equipment modernization and for readiness. And for all of American security, we passed the missile defense system.

For our children, educational flexibility; to put local school boards, teachers, and parents back in charge of their classrooms, not Washington bureaucrats.

For seniors, we have increased access to health care by protecting Medicare and reforming the Balanced Budget Act. And, finally, for the first time since 1969, we stopped the raid on Social Security. And we will be adjourning with $147 billion in the Social Security surplus untouched.

Now, Mr. Speaker, I know we are not allowed to wear buttons on the floor, but if we were allowed, I would wear this one. Because it says, proudly, we the Members of this Congress have stopped the raid on the Social Security Trust Fund.

Mr. SCHAFFER. Mr. Speaker, I want to graphically point out again what the gentleman just said. If we go back over the last 30 years of overspending in Washington, D.C., we can see we have to go way back to 1970 to see a time when we generated even a little teeny bit of a surplus. Going forward, over the next 30 years, we can see that this government has consistently, year after year, dipped into Social Security and borrowed from other places in order to create a huge national debt. This is the accumulation of Washington spending more money than the taxpayers have sent to Washington in order to run the government.

Well, we know that that is unnecessary. We do not need to do that. We can see what happened here at its absolute worst. The American people revolted, to some degree. This is the year Republicans were elected to take over the majority of the Congress, the year our party was placed in charge of trying to manage this huge problem.

And we can see the result. By slowing the rate of growth in Federal spending, by being more frugally sensitive as to how to manage the Federal budget, and being more responsible, we managed to shrink this debt. Not only did we see it go away, but it was to the point where, in 1998, we were beginning to mount a surplus that has allowed us to pay down the debt quicker, allowed us to save Social Security, allowed us to rescue the Medicare program, allowed us to provide a strong national defense, and allowed us to spend the time to make government more efficient and effective so that we can get dollars to classrooms, get dollars to the front lines, get dollars to the places that really need it rather than being locked up here in this gigantic bureaucracy here in Washington, D.C.

This is something to be proud of. And this portion of the chart here can grow and grow, if we continue to apply the conservative Republican principles that have gotten us from down here when Democrats were in charge to this line here when Republicans were in charge. A dramatic difference.

Mr. Speaker, I yield to the gentleman from Arizona.

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Colorado, and again we need to reaffirm and amplify not only what the chart indicates but also what our colleague from Georgia mentioned.

We have been able to pay down debt this fiscal year. We are in the process of paying down close to $150 billion in debt. Over the past 2 years, almost $140 billion in debt paid down. We are in the process of doing this. And, Mr. Speaker, I am sure my colleagues hear at town hall meetings two concerns. From day one, when I was elected to the Congress of the United States, my constituents said loudly and clearly, Mr. Congressman, get Uncle Sam's hand out of Social Security money. Wall that off for Social Security. And we have done so. And the President has at long last agreed with us. But they have also said, pay down the debt; and we have been doing that.

Now, Mr. Speaker, we can point out again the atmospherics of this chamber, the histrionics from the other side. The problem is this: The institutional pressure of those who want to grow government, Mr. Speaker, those who sadly could be described as serial spenders, and I am not talking about a breakfast offering of fruits and grains topped off with milk, but the serial spenders, the compulsive spenders, who always heed in their priorities the notion that they know better what to do with the people's money. We are saying we are going to save that money for the Social Security Trust Fund.

And it is akin to our rich spiritual tradition where, as part of the service, we pass the plate. All we are asking the left to do is put a penny on the plate. For every dollar of discretionary spending, Mr. Speaker, can they not spare a penny for grandma? A penny saved is retirement secured. One hundred percent of Social Security money to Social Security. And, accordingly, we have made the difference, and we invite our friends on the left to join us.

Mr. SCHAFFER. I yield to the gentleman from New York once again.

Mr. FOSSELLA. Inasmuch as this debate is coming to a close, Mr. Speaker, allow me just to think, observe what has happened in the last year, and that is that in the beginning of the year we had proposals from the White House for more taxes, more spending, and setting aside only a portion of the Social Security surplus to be walled off. The Republican Congress, fortunately, and rightfully, stepped in and stopped increasing taxes, controlled spending as much as it could, and set aside 100 percent of the Social Security surplus to protect it from unnecessary wasteful government programs.

So as we set our sights on the future, I hope that the American people understand that this Congress is committed to growth, to creating more jobs, to providing more freedom for individuals and small business owners so that they can grow and so that they can prosper, so that we can be better off tomorrow than we are today. Along the way, we know there are going to be people who do not want change, who do not believe in things like free trade, who do not believe in things like lower taxes, who do not believe in things like limited government, but who do believe in the alternative; that decisions are better made here in Washington, and they just want to keep that money coming here so that they can control the taxpaying public's lives a little more.

So as we engage in the debate, and as we go home for the holidays, I hope the American people reflect, as I will do as I head back home to Staten Island, and I hope they understand that there is a party here that sees a brighter and more prosperous future when we place our faith in the American people.

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Mr. SCHAFFER. Mr. Speaker, I yield to the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, I would like to begin by saying that I look forward to creating a structure whereby the gentleman from Staten Island, New York (Mr. FOSSELLA), can go back to Staten Island. We are hoping that we will be able to do that.

I would like to praise the gentleman from Arizona (Mr. HAYWORTH) and the gentleman from Colorado (Mr. SCHAFFER) and join the gentleman from Staten Island, New York (Mr. FOSSELLA), for their very eloquent and thoughtful remarks and their leadership.

Mr. Speaker, I would like to thank again my friend, the gentleman from Staten Island, New York (Mr. Fossella), for underscoring this party's commitment to free trade.

Mr. SCHAFFER. Mr. Speaker, we are here in the final few minutes of what may be for me and the gentleman from Arizona (Mr. HAYWORTH) and others our last special order opportunity for the millennium. And so, it is a time that I look on as a pretty solemn occasion because we have worked pretty hard this year and tried to get to this point of getting the White House to realize that raiding Social Security is no longer a good idea and it never was a good idea. It is something we ought to avoid to the greatest extent possible. It is nice to see that the President finally came around to the Republican way of thinking on this point.

The last hurdle remaining is for us to persuade our friends on the other side of the aisle to join the Congress, join the Republican majority, and join the White House now in just securing this final deal, getting this final package agreed upon to save that one penny on the dollar in order to avoid the previous plans to raid Social Security.

Mr. HAYWORTH. Mr. Speaker, if the gentleman will continue to yield, I thank my friends from the left, in the minority, for offering some points of view. And others will come later.

I think it is important to remember this. As the President said when he came to give his State of the Union message, first things first.

Now, we had to get him to agree with us, and he finally did so after initially wanting to spend almost 40 percent of the Social Security fund on new government programs. We finally got him to agree, no, no. Let us save 100 percent of Social Security for Social Security. We welcome that.

The President was also content to let the House work its will when we brought to the floor his package of new taxation, higher taxation, and fees in the billions of dollars. And not a single Member of this body voted for those new taxes, neither Republicans nor Democrats. So we appreciate him acceding to the will of the House in that regard.

Now, we cannot make too much of this, Mr. Speaker, or emphasize it enough. The President and the Speaker of the House had agreed to the notion of across-the-board savings, maybe not even a penny on every dollar, but savings enough to make sure we stay out of the Social Security Trust Funds.

We welcome back the gentleman from Missouri (Mr. GEPHARDT), the minority leader. We are pleased he is back in town, back from his campaign cash swing on the West Coast. We hope now he will sit down and solve the problems. We can get it done.

Mr. SCHAFFER. Mr. Speaker, I thank the gentleman from Arizona (Mr. HAYWORTH) for joining us.

I just want to point out one more time that the Department of Education tomorrow will tell the Congress that it is unable to account for its spending in 1998. Its books are not auditable.

This is a threat to American school children around the country. It is a threat to our efforts to try to get dollars to the classroom. It is a huge problem that the White House needs to come to grips with and deal with. We on the Republican side want to fix this mismanagement problem we have over in the Department of Education.

At this point, I would, before I yield back, just ask subsequent speakers to be sure to address this topic of unauditable books over in the Department of Education, tell us whether they are willing to help work with the Republicans to correct this mismanagement, and direct the White House to get us to a point where the Department of Education, a $120 billion agency, will be able to audit its books.

REPORT ON HOUSE RESOLUTION 382, PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. DREIER (during the Special Order of Mr. SCHAFFER) from the Committee on Rules, submitted a privileged report (Rept. No. 106–475) on the resolution (H. Res. 382) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS REPORTED FROM COMMITTEE ON RULES

Mr. DREIER (during the Special Order of Mr. SCHAFFER) from the Committee on Rules, submitted a privileged report (Rept. No. 106–476) on the resolution (H. Res. 383) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

NATIONAL ALZHEIMER'S MONTH

The SPEAKER pro tempore (Mr. NUSSLE). Under a previous order of the House, the gentlewoman from Maryland (Mrs. MORELLA) is recognized for 5 minutes.

Mrs. MORELLA. Mr. Speaker, I want to have a Special Order on National Alzheimer's Month, which is this month of November.

In 1906, a German doctor named Dr. Alois Alzheimer noticed plaques and tangles in the brain tissue of a woman who had died of an unusual mental disease. Today, these plaques and tangles in the parts of the brain controlling thought and memory and language Dr. Alzheimer observed are hallmarks of Alzheimer's disease.

Today, Mr. Speaker, Alzheimer's disease is the most common cause of dementia in older people, affecting an estimated 4 million people in the United States. And while every day scientists learn more about this disease, after almost a century's worth of research, its cause remains unknown and there is no cure.

Unless scientific research finds a way to prevent or cure the disease, 14 million people in the United States will have Alzheimer's disease by the middle of the 21st century.

Despite this, we have learned much about Alzheimer's disease during this century of research. We know that Alzheimer's disease is a slow disease starting with mild memory problems and ending with severe mental damage. At first the only symptom may be mild forgetfulness, where a person with Alzheimer's disease may have trouble remembering recent events, activities, or the names of familiar people or things. Such difficulties may be a bother, but usually they are not serious enough to cause alarm.

However, as the disease progresses, symptoms are more easily noticed and become serious enough to cause people with Alzheimer's disease or their family members to seek medical help. These people can no longer think clearly; and they begin to have problems speaking, understanding, reading or writing.

Later on, people with Alzheimer's disease may become anxious or aggressive or wander away from home. Eventually, patients may need total care. On average, a person will live 8 years after symptoms appear.

Let me pause at this moment, Mr. Speaker, because the fact that so many Alzheimer's patients may need total care in the future is so very important. Congress must take a long hard look at the way we finance the future health care needs of the Nation's elderly.

With the aging of our population, we can expect an increase in the number

of people with Alzheimer's and other age-related diseases that will require nursing facility care at some point. Simply put, longer lives increase the likelihood of long-term care.

At least half of all nursing home residents have Alzheimer's disease or another dementia, and the average annual cost of Alzheimer nursing care is $42,000. And that is modest.

Unfortunately, for many people paying for long-term care out of pocket, it would be a financially and emotionally draining situation as assets worked over a lifetime to build could be lost paying for a few months of long-term care.

Congress must take action to encourage private initiatives, such as expanded use of private long-term care insurance to help families plan for the long-term care needs of their elderly relatives, and they need to in a wide variety of settings that are currently available.

That is why I am proud to have this support of 125 of my colleagues for my bill, H.R. 1111, the Federal Civilian and Uniformed Services Long-term Care Insurance Act of 1999.

This legislation, developed in consultation with the Alzheimer's Association, makes long-term care insurance available at group rates to active and retired Federal civilian personnel, active and retired military personnel, and their families. I hope that my Federal and military long-term care bill will serve as an example for other employers that would lead to increased societal use of long-term care insurance. Having coverage eases the pressure on Federal entitlement spending while protecting the hard-earned assets of American families.

In addition to meeting the needs of Alzheimer's patients, H.R. 1111 also seeks to ease the financial burden on spouses or other family members who often provide the day-to-day care for people with Alzheimer's disease.

As the disease gets worse, people often need more and more care. This can be hard for caregivers and can affect their physical and mental health. It can affect their family life, their jobs, their finances.

In fact, 70 percent of people with Alzheimer's live at home and 75 percent of home care is provided by family and friends. What a strain.

Under H.R. 1111, participating carriers would give enrollees the option of receiving their insurance benefits in cash, as opposed to services, to help family members who must rearrange their work schedules, work fewer than normal hours, or who must take unpaid leaves of absence to provide long-term care.

In addition to meeting the financial needs of people with Alzheimer's disease today, we must continue our research into treatments and cures for Alzheimer's. This is something that the National Institutes of Health is doing as we end this ''decade of the brain'' and the fact that we are working to double the budget of NIH by 2003, and this year we will have made that second installment.

So, Mr. Speaker, to my colleagues, I look forward to working with all of them to ensure that the Federal Government continues to fulfill its investment in medical research well into the next century so that some day Alzheimer's disease will be history.

UNFINISHED BUSINESS OF CONGRESS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 6, 1999, the gentleman from New Jersey (Mr. PALLONE) is recognized for 60 minutes as the designee of the minority leader.

Mr. PALLONE. Mr. Speaker, let me say that what I wanted to do during some part of this hour this afternoon was to talk about the unfinished business of this Congress.

Last night, myself and several of my colleagues on the Democratic side took to the floor to basically point out how frustrated we are with the fact that a year has passed, the first year, if you will, of this 2-year congressional session in the House of Representatives, and yet the main issues that the American people seek to have us address, whether it be HMO reform or the need for a prescription drug benefit under Medicare for senior citizens, or campaign finance reform, gun safety, minimum wage, the issues that our constituents talk about on a regular basis when we are back home and when we go back home after the budget is concluded here in the House, we will be hearing about these issues again, and yet every time we try to bring these issues to the floor or pass legislation, we are thwarted by the Republican majority.

Mr. HAYWORTH. Mr. Speaker, would the gentleman from New Jersey (Mr. PALLONE) yield?

Mr. PALLONE. Mr. Speaker, I will not yield at this point.

I just want the gentleman to know I intend to use the hour for the Democratic side.

Mr. GREEN of Texas. Mr. Speaker, will the gentleman yield?

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

Mr. GREEN of Texas. Mr. Speaker, I tried to get my colleagues to yield a few minutes ago. And typically on this floor we have that courtesy between one another so we can debate the issues rather than just to hear the rhetoric, which is what we heard for that last hour. They were not willing to do it. And so, as much as I would like to and I know my colleague would yield as a courtesy to our colleague from Arizona (Mr. HAYWORTH), maybe next time they will know that this is a two-way street up here, even if they only have a five-vote majority.

Mr. PALLONE. Mr. Speaker, I appreciate the comments by my colleague from Texas.

Let me just say that before I get to this unfinished agenda, which I have to say is my real concern, because most of the debate that has occurred and most of the arguments that we have heard over the last few weeks about the budget, although, obviously, we need to pass a budget, do not deal with these other issues which are really the most important issues that face this Congress that have not been addressed by the Republican majority.

I did want to say I was somewhat concerned by some of the statements made in the previous hour by Republican colleagues about the budget. Because I think I need to remind my colleagues and my constituents that the Republicans are in the majority in this House and in this Congress, in both the House and the Senate, and the bottom line is that the budget, the appropriation bills, were supposed to have been completed by October 1 of this year, which is the beginning of the fiscal year.

The fact that they are not completed, in my opinion, is totally the fault of the Republican majority. They are going to say, well, they passed bills. But many of the bills they passed and sent to the President they knew would be vetoed. They knew that there was not agreement between the President and the Congress on the legislation.

Rather than spend the time, particularly during the summer, trying to come up with appropriation bills and a budget that could actually get a consensus and could pass, they spent the summer and most of the last 6 months prior to that trying to put in place a trillion dollar tax cut which primarily went to wealthy Americans and also to corporate interests, to special interests, and they spent the time on that.

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They put in place and passed this trillion-dollar tax cut, primarily for the wealthy, knowing the President would veto it and the President did veto it, and the reason he did so is because he knew that if it passed and if it was signed into law, there would not be any money left from the surplus to pay for Social Security and Medicare.

Now, after they wasted all their time on that, they put forth these appropriation bills, many of which they knew would never be approved by the President, and they started this charge a few weeks ago or a month ago, suggesting that the Democrats wanted to spend the Social Security trust fund.

I just want to say one thing, if I could, because I know we have said this many times and it really is not the main reason I am here this afternoon, but the Republican leadership has broken so many promises on the budget, not only the promise not to spend the Social Security trust fund but the promise not to exceed the caps. If you remember 2 years ago, we passed the Balanced Budget Act. At that time we said that there were going to be certain caps in place every year on the amount

of spending that we would do, and we also made a commitment that we were not going to use the Social Security trust fund because we were going to have a surplus and it would not be necessary to do so. Both of those promises have been broken.

I just wanted to give some information about that. First, the Republican appropriation bills busted the outlay caps for fiscal year 2000 by billions of dollars. I am quoting now from the Senate majority leader, the Republican majority leader LOTT who acknowledged on September 18 when he stated, ''I think you have to be honest and acknowledge that we're not going to meet the caps.'' That was in the Washington Post, September 17, 1999.

Indeed, according to the latest CBO estimates of October 28, the Republican spending bills have busted the fiscal year 2000 outlay caps by $30.7 billion, although they declare about $18 billion of this is emergencies and thereby exempt from the cap.

So when we talk about the Republican leadership, they are the ones that are going on the spending spree with these appropriation bills. In many cases the President has vetoed the bills because they spend too much. And, of course, they spend it on the wrong things.

Secondly, on October 28, the nonpartisan Congressional Budget Office, and my colleague from Texas knows, we have mentioned this many times to the point where we get tired of repeating it, but the CBO certified then that the GOP leadership had broken their promise not to dip into the Social Security trust fund. Specifically, on October 28 the CBO sent a letter to Congress certifying that on the basis of CBO estimates of the 13 completed GOP appropriation bills, the GOP bills spent $17 billion of the Social Security surplus, even after their 1 percent across-the-board cut is taken into account.

I know we heard from the other side about across-the-board cuts, how this is holding up the budget and all that. The bottom line is their own appropriation bills, their budget that they put together and sent to the President, spent a significant amount of money of the Social Security surplus. I am not looking to stress that, as my colleague from Texas knows. It is just that they keep bringing it up and they keep bringing it up, they do not pass the bills, they cannot get the budget passed. Now we are here and finally we think in the next day or two it is going to be passed, but we have all these other things that are so much more important that have not been addressed.

I yield to my colleague from Texas.

Mr. GREEN of Texas. I thank my colleague for yielding. I appreciate both of us being able to do this this afternoon. Typically this time of day we would be voting and not just talking about issues. But in following up our Republican colleagues for their hour that they had talking about both education, how important it is to them, and you and I will spend most of our time talking about the unfinished agenda, the issues that we would have liked to have dealt with that necessarily did not even have Federal dollars attached to it.

For example, their talk about the 1 percent cut. They were saying how we can find 1 percent in every agency. I am sure we can. But I also know that some of the appropriations bills that they have put in, they have projects in there that should be cut first and not across the board. My argument is if you just cut 1 percent across the board, if you have a wasteful project in there, you still have a 99 percent waste. Maybe it is a carrier we do not need that was added because of the Senate or someone. Maybe there is a certain project in a district. If it is 100 percent waste, if you only cut 1 percent, they are still getting 99 percent of it. That is what bothers me about that. They are saying we could find 1 percent. Sure I could find 1 percent but I would not cut, for example, title I funding in public education. Sure, I would not mind cutting the Department of Education, some of their other programs, but I know title I money goes to the classroom.

Just in the last couple of days because of the budget negotiations between the President and the administration and the Congress, we have added substantially new money to title I. That did not come out of their committee. In fact, their appropriations bill for education did not even come out of the committee from what I understand. It was the last issue they dealt with. So hearing someone stand up here and talk about they are for public education, in fact my colleague from Colorado who was part of that other hour, we had a quote last year saying that public education is the legacy of communism. One of the things I wanted to ask him when I asked him to yield just so we could say, is that a direct quote or was that said, so we could have the American people know where we all stand on public education and the commitment to public education.

The 1 percent cut I think ideally, in theory it is not bad, but again if you have a wasteful project you are still having 99 percent waste. Let us go back in and cut that budget down and eliminate those wasteful projects so we do not have to cut the important things, so we do not have to cut health care for children or education for children.

The other concern I have is they continually talk about dipping into Social Security. The gentleman mentioned that, as of October 28.

We have some numbers that, of course, since we have so many different numbers that we have but this poster, I think, will show that the issue of Republicans and Social Security and what they did. You can tell that it is $21 billion like you quoted. As of October 27 or 28, it is $21 billion. To say that the White House or as Democrats we are trying to spend the Social Security surplus is ludicrous. Again, I think we ought to be able to have this debate on the floor and have our colleagues say, tell me, where did this $21 billion that is going to be borrowed out of the Social Security trust fund, it is not being taken out of the fund, it is being borrowed like it has been for decades. Should we stop that? Of course we should. But do not stand up here on the floor or spend millions of dollars on ads around the country saying that Democrats are spending the Social Security surplus when we are not. In fact, I think we could come back with a budget that would meet what we have in the budget surplus very easily and still address the needs of our country, the needs of the Department of Defense. In fact, I think it is appropriate that their 1 percent cut that they talked about, and again from Houston we do not have a whole lot of defense installations but we do have a concern about the defense of our Nation. That 1 percent cut, the effect of the Republican across-the-board cut on defense, and I am quoting the Chairman of the Joint Chiefs of Staff,

> Of great concern for us today is the across-the-board reductions proposed by some Members. This would strip away the gains that we have made or what we have just done to start readiness moving back in the right direction. In other words, Mr. Chairman, if applied to this program, it would be devastating.

And so that is the direct quote from the Chairman of the Joint Chiefs of Staff. Our Republican colleagues who come up here and talk about, well, we can find 1 percent, sure. I could find 1 percent in the Department of Defense, but if we take a meat ax approach to it, we are going to cut about 35,000 service personnel. We cannot even staff the carriers in the Navy vessels we have now, much less adding a new one, yet they want to cut across the board. We would hope the Pentagon or the Department of Education or whatever agency would only cut that waste. But you and I know, it is our job to go in there and pinpoint those projects that really are not in the national interest and to do it instead of saying we want you to cut that 1 percent, leaving that up to the agencies.

The other concern, we talk about dipping into Social Security, we have another pretty good quote that follows up on that. When they talk about cutting, at one time it was a 1.4 percent across-the-board cut in military spending. The response from the Republican majority leader is, ''Instead of having two colonels hold your paper, you'll have only one.'' Granted I do not want two colonels up here holding somebody's paper, but I know when our troops are out in the field, whether they are in Bosnia, Kosovo or anywhere else that they go for our country, I want them to have the resources that they need to do the job, plus I want to pay them. I want to pay them a decent amount. Again on a bipartisan basis, this Congress passed a pay raise for our military personnel, so

hopefully some of the enlisted personnel will be able to get off public assistance if they have family.

That is why I am glad to follow up my colleagues. I would like to debate the intensity on education particularly, but since they would not yield to me earlier, and again I would love to yield to them to talk about public education and what the Department of Education does. This year alone, this Congress passed a reauthorization for title I funding. Title I funding goes to help the schools. They have the poorest and the hardest to educate children. This Congress passed on a bipartisan basis the reauthorization.

In 1994 when I was on the Education Committee, we passed on a bipartisan basis a reauthorization for title I. So instead of coming in and cutting and saying education funding is wasteful, let us go in and say, okay, let us take out what you consider wasteful but let us make sure we do help with smaller class sizes, that we do help children who English is not their first language, that that is what we do on the Federal level. We do not provide the education opportunity on the Federal level. That is for the local and the State. But we can assist local and State agencies, our local school boards, because they are the ones having to make the decisions, our State agencies are making the decisions. But we can do it on a national basis. If we go in and always attack the Department of Education and want to abolish it and they do not do any good, that is what we hear from the other side so often. But let us go in and say, cut out what you do not think is a priority in education.

The problem is that sometimes what they want to cut out is our meat and potatoes. They do not want title I, they do not want bilingual education. That is what bothers me again about having an hour to listen without having a chance to do the debate.

I know you and I really want to talk about the unfinished agenda, which in some cases will not cost one dime more of Federal tax dollars.

I also have some of our things that are left buried for this year.

Mr. PALLONE. If the gentleman will yield before we get into that, and I do want to get into our unfinished agenda, I was reading through my papers here. I came across this editorial in the New York Times that appeared soon after the Republicans started running the ads in some Democratic districts accusing Democrats of spending the Social Security trust fund. In light of the remarks you made about the across-the-board cuts and some of the pork-barrel spending that could be eliminated, I just wanted to, if I could, quote a couple of sections of this, because I think it really responds and sums up all the things that you were saying. This is entitled ''Social Security Scare-Mongering.'' This is not us, this is the New York Times speaking.

It says,

Republicans are trying to make political headway using the Social Security weapon against Democrats. They are advancing a ludicrous claim that deep Republican budget cuts are needed to stop a Democratic ''raid'' on Social Security.

The Republican argument rests on a fallacy that spending budget money today compromises the government's ability to meet its Social Security obligations in the future. Instead of squabbling over dollars in this year's budget, Congress can do more for Social Security by producing sound budgets that make the right investments while keeping the economy growing. A prosperous economy is the best guarantee that workers in the future will be able to afford paying for their parents' retirement.

In January, President Clinton called for setting aside nearly two-thirds of the total projected Federal surplus, from Social Security and other sources, to help retire Federal debt over the next 15 years. That was a sensible proposal intended to increase the savings rate and lower future interest rates. But the argument this year is over whether a small amount of the $140 billion Social Security surplus in the current year should be used to avoid spending cuts in other programs. In fact, no damage would be done to the economy, to Social Security or to the Federal budget itself if that happened.

Asserting that it is merely trying to save money for Social Security, the Republican leadership in Congress wants to cut spending by 1.4 percent across the board and block the White House's initiatives for money to hire new teachers and police officers. The Republican leaders' approach has been so wrongheaded that yesterday it provoked a revolt in the party rank and file. But it is not necessary to slash programs to ''save'' Social Security. More to the point, there are better places to save money, by cutting billions of dollars in pork-barrel projects and eliminating some of the expensive tax breaks for special interests that have made big campaign donations to the Republican Party in recent years.

President Clinton is right to veto spending bills that do not meet priority needs in education, the environment, law enforcement and other areas. As the White House notes, the Republican budget schemes approved so far have already tapped the Social Security system's surplus, according to the Congressional Budget Office.

That says it all. It is just a bunch of bogus claims about Social Security, spending cuts across the board instead of attacking the real spending-bloated projects that need to be attacked. As I would point out, and I know you are going to get into the unfinished agenda, the biggest thing is that they have not addressed the need to deal with Social Security and Medicare long-term. We would never have been able to address that if the President had not vetoed their huge tax cut, because there would not be any money in the surplus left to deal with Social Security and Medicare.

Mr. GREEN of Texas. Let me just continue a little bit before we get into our unfinished agenda, and talk about the proposed 1 percent across-the-board cut, what would be cut. For example, work study, a 1 percent cut across the board for work study would cut $9 million out of it. For title I again for the educationally disadvantaged, $78 million. We have more children and more children, so many children who are not served by title I already, that it would go backwards literally.

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The 1 percent cut would cut, for example, FAA operations, $59 million; Coast Guard operations, $25 million; Federal aid for highways, $262 million.

So there are so many things that they would cut. EPA grants for wastewater and drinking water treatment, $32 million. I could just go on and on down the list. Again, military personnel, their 1 percent cut would be $739 million. Again, that was quantified to say it would be 35,000 military personnel that would not be there if we did that across-the-board cut.

So again, I would say yes, 1 percent is not bad across the board, but let us not cut the good with the bad, let us cut the bad out, and that is our job as Members of Congress.

Mr. Speaker, the unfinished legacy, so to speak, of this Congress is, first of all, prescription drug benefits that we were hopefully going to get as a Medicare drug prescription benefit. It was killed this year. There are actually a number of different proposals, at least on the House side. We have one by the gentleman from Maine (Mr. BALDACCI) and the gentleman from Texas (Mr. TURNER) and a host of other Members, that would not cost a dime of Federal dollars, it would just let the Federal Government, through HCFA, to negotiate, just like HMOs do now, just like the VA does, like anyone does for bulk purchasing. And to save money for seniors on prescription medication. That was not even considered on this floor except when we brought it up as an issue.

The Patients' Bill of Rights, which is again, near and dear to our hearts, because we spent so much time in talking about it; again, both of us serving on the Subcommittee on Health of the Committee on Commerce, and the gentleman chairs the Health Care Task Force of the Democratic caucus. The Patients' Bill of Rights was killed for this year, and now I am sure it is on life support maybe, because we passed a good, strong bill out of here. But when we saw the Speaker's appointments to the Republican Conference committee of 13 Members, only one of them voted for the bill, only one voted for the bill, and that is frustrating. Now we have a weak bill that the Senate passed, and we have a very strong bill that the House passed; and yet here in the House, even though we had a strong bill, only one Member of the conference committee, of the majority, voted for the bill.

So I am worried that not only has it been killed for this year, but we may see it killed for next year.

The other thing I think we have talked about, and we have talked about all year and we were hoping we could get something done with it was the minimum wage increase. We have had the greatest economy, literally, in our history, the longest running, and inflation is not a problem; and yet sometimes the folks in the lowest level of workers are the ones who are being left

behind. So there has been serious talk over the last 3 weeks on the minimum wage, and there was effort to do something, but we have been here since January, and that bill has been talked about and has been introduced.

So a dollar for the people who are not on social services, but are working, a dollar increase over 2 years only seems to be beneficial not only for the country, because that dollar, those folks are not going to take that $1 an hour more and go buy stock with it, although that would be great, they are going to pay more on rent, buy more food, so that dollar will circulate within the economy. Again, a dollar increase in the minimum wage, I am sorry it did not pass this year. Maybe, again, we will do it next year. I do not think any of us would serve in the Congress if we were not optimists to say we could do better the next year.

Campaign finance reform. Again, a very good issue that the House passed, a very tough bill; and now it is sitting somewhere over in the Senate, and there will not be any campaign finance reform bill for this year. Again, maybe next year. I feel like sometimes I am a football coach saying wait until next year; we will do better next year. But we are not playing football; we are dealing with people's lives here, and that is important.

Smaller class sizes for our public schools. Again, 94 percent of public education money is spent by local and State governments; only 6 percent on the Federal level. We are not talking about a large Federal commitment. But we also know that our local school districts and our States use Title I money; they use this Federal education money to help leverage what they do for the classes and the schools that need it the most and the children that need it the most.

Again, my wife is a high school algebra teacher and most of the smaller class sizes we talk about, kindergarten through elementary school, kindergarten through third grade or fifth grade, but one cannot teach algebra to 35 students; we need a smaller class size, hopefully 20 students where one can really deal with the complications.

The last issue, and I know I like to talk about this too because a lot of people think sometimes as Democrats and Republicans, well, the Democrats, they do not really want tax relief. Sure, I would love to have tax relief. I do my own taxes and let me tell my colleague, I would like to simplify and make it a lot easier. But there are things that we could do for targeted tax relief that we had as part of our legislation, and again, it was not even seriously considered. The only thing that was considered was that $800 billion over a 10-year period that would literally take the heart out of Social Security and Medicare efforts. Not only that, but also in military spending and everything else that is the responsibility of our country.

Let me just finish by saying a couple of weeks ago, and I have used this before, the reason the managed care issue was so important and why it passed this House on a very bipartisan vote is it was illustrated by Newsweek, ''HMO Hell,'' and the number of people who are going through that. And they are frustrated because they have some type of insurance, whether it is through their employer, whether it is maybe they pay part of it through their employer; and yet when they go receive that type of care, when they go get that care, they are somehow eliminated from it or delayed.

Our bill would eliminate the gag rules where a physician or a doctor or a provider could talk with their patients. It would make the determination of medical necessity not by a bureaucrat or someone answering a phone, but by someone who actually knows that individual patient. Outside, an independent appeals process, a swift appeals process which will make sure that people do not have to go through HMO hell. Emergency room care. Instead of one having to drive by one's closest emergency room, if someone has an emergency, maybe one has heart trouble or chest pains and going to the hospital on their list, one can go to the closest hospital and find out if it really is an emergency and if one needs to be stabilized. That would help stop having to go through HMO hell.

The last one is accountability. That is probably more important than almost any of them, because everybody ought to be accountable in their jobs. The gentleman and I are accountable to our voters every 2 years. I tell people my contract is renewed every 2 years, so we are accountable. Because if we make a vote up here that our constituents do not like, then they have the right to vote against us. Hopefully, if we do something they like, they vote for us, so it comes out even. But on accountability, the people who make the medical decisions need to be accountable and, ultimately, that means the courthouse.

Now, part of accountability is a good, strong independent appeals process, but we found out in Texas that we have a good appeals process, but the reason it is successful is we have that backup. If the appeals process breaks down, one can go to court. During over 2 years of our Texas law, we have had 250, 300 maybe appeals, just hundreds of them filed and over half of them are being found in favor of the patient, but we have had less than five lawsuits. In fact, three of those five I understand is by one attorney in Fort Worth, Texas, for whatever reason. So there have not been many rushing to the courthouse.

So if we had strong accountability, we would then keep people from having to go through HMO hell, and that is a bill that I know the gentleman and I talked about all year and last year and maybe even the year before. Because we have not passed it this year, after the New Year holiday, after we celebrate the holidays and the new millennium, hopefully we will come back and be able to pass a real strong HMO reform bill, patterned after a lot of what our States have, particularly in Texas.

That is why I think the unfinished agenda is so important for us. We do not want to just point at the other side and say, hey, you are doing wrong; let us see what we can all do right. We could do right on managed care reform; we could do right on prescription drug medication; we could do right on a minimum wage increase; we could do right by education, for smaller class sizes; and we could do right by passing a strong campaign finance reform bill, again, that would eliminate the soft money that we hear is so bad. Although again, the gentleman and I do not benefit from that as individuals, because we are under the caps like everyone else is, but that soft money that goes to the party structures and whoever else, and even the independent expenditures from people who maybe if they do not like how the gentleman voted on a bill or they do not like how I voted, they can spend literally millions of dollars trying to defeat us without knowing who is actually spending it. That is why we need campaign finance reform. People should have the right to know who is doing it.

There are a lot of things that we did not do this year, and I appreciate the gentleman setting aside this special order again, even though it is in the middle of the day instead of late at night to talk about the unfinished agenda. We did not do very good this year, but we will do better next year, we hope.

Mr. PALLONE. Mr. Speaker, I just wanted to thank the gentleman for what he said, and particularly for raising those tombstones. I just wanted to comment on some of the tombstones and some of the remarks the gentleman made because I think they are so appropriate. I really like the tombstone presentation, because I think it says it all. I mean, what do they say? ''Rest in peace, killed by the GOP, 1999.'' That is basically what we face.

We know that in another day or so, once this budget is passed, that we are going to go home and the Republicans want us to go home, not having addressed this unfinished agenda, these major issues that the public cares about. When we go home, that is all we are going to hear. I know my colleague from Texas faces that, and when I go home nobody is going to tell me, thank you for passing the budget. They expect the budget to be passed. That is routine. But they want us to address these major concerns that have not been addressed.

I just wanted to say a couple of things about them. The gentleman mentioned the campaign finance reform. I know that is not one that I hear too much about because I know most people think that is more of an inside situation, but it really is not. The reality is that when we have all of this money being spent that is unregulated, it really does corrupt the system. I just

know from my own campaign, in my last campaign in November of 1998, I think I spent and my opponent spent about $1 million each that was regulated money, if you will. In other words, hard dollars, Federal dollars that people contributed and people disclosed, and it was a hard-fought race.

But there was about $4 million to $5 million that was spent against me in independent expenditures, TV ads on New York stations, the last 2 or 3 weeks of the campaign, by a group that never identified itself. I think it called itself Americans For Job Security. They do not have to file anything; they do not have to disclose where that money came from. And to this day, we are only speculating about where we think the money came from. It was undoubtedly millions of dollars in corporate money that was coming from special interests, and we have no idea where it came from. It really corrupts the system when we have that kind of phenomenon. That is why we need to pass the Shays-Meehan bill and we need to have real campaign finance reform.

The other thing the gentleman mentioned, and I appreciate the fact that he brought it up, is the targeted tax cuts, because I started out this afternoon by talking about this trillion dollar Republican tax cut that went primarily for the wealthy and for corporate interests, and I am glad the gentleman came and pointed out that we as Democrats want tax cuts as well, but we want them targeted for middle-class families, for child care, for education needs, those kinds of things, not these huge, trillion dollar tax cuts that just go to help the wealthy.

I brought with me some information about that Republican tax cut, and I will just briefly mention it. Just to show how it was skewed toward the wealthy and corporations. The Republican plan means $46,000 per year for the wealthiest taxpayers that they were going to get back, but only $160 per year for the average middle-class family, and $21 billion was lavished on special interest tax breaks for big businesses.

The other thing about that trillion dollar Republican tax cut is that it basically used the entire surplus and would prevent us from paying down a significant chunk of the $5.6 trillion national debt.

The President keeps pointing out that we are now actually reducing the debt, paying back some of the bonds, not collecting the same interest that we were before. If we use all of that and give it back in tax breaks, one cannot pay down the national debt. But most important, that Republican tax plan just took all the money away that could be used for Medicare, for prescription drugs, and also to shore up Social Security.

The other thing the gentleman mentioned, one of the tombstones was about the small class size. I think we should mention that two of the reasons, and I think the gentleman mentioned it, two of the major reasons why we stayed here for the last 6 weeks and insisted on a better budget than what the Republicans were sending to the President, two of the major reasons was because we wanted to fund that 100,000 teachers program where the money goes back to the municipalities so they do not have to pay it in local property taxes and also for the COPs program which was similar. The Republicans, as the gentleman knows, did not want to pay for that. Their budget did not include those programs. Now, the budget that we are going to adopt tomorrow does at least include those.

So I guess we would have to say that at least in one of those cases, we have had success.

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But unfortunately, we have not had success on so many other things, the HMO reform, the Medicare prescription drugs, and so many of the other things the gentleman mentioned. But we did at least, in staying here for the last 6 weeks and insisting that they put in the 100,000 teachers and cops, at least we did accomplish something.

Mr. Speaker, I yield to the gentlewoman from California (Ms. SANCHEZ). I am so pleased she is joining us here this afternoon.

Ms. SANCHEZ. Mr. Speaker, I thank my colleague from New Jersey for yielding to me.

Mr. Speaker, I just wanted to reiterate what the gentleman just talked about, this whole issue of why have we been here 6 extra weeks. Because I go home to my district and people ask me all the time, why is this fighting going on in Congress?

I try to explain to them that the strategy of the other side, of the Republicans, was to fund what they wanted up front in the appropriations bills and then leave the appropriations that they do not like to fund to the very end, and say, we have spent too much already. We cannot fund these other issues.

Of course, the one they wanted to leave for the end was the HHS and education bill, health care, human services, the education pieces of the budget. In fact, initially out of the Appropriations Committee, as I recall, they wanted a 40 percent cut in that.

I tell people all the time when I am back home, the reason we are in Washington still is because the Democrats did not want to see education and health care services cut. We would stand up and we would fight for that.

Of course, as we saw, we are getting the next installment, if you will, of the 100,000 teachers. I think that is great. It is patterned after the COPS program. Something that we have seen since President Clinton initiated that and we voted for it and we have been funding it, we have been seen the crime rate drop across the Nation.

It is really interesting because, of course, then we had COPS III in this year's budget. The Republicans did not want to fund it anymore. I would go back home and even my own police officers would say, what is wrong with those guys? Why do they not understand that the reason that crime has gone down is because we have had these extra bodies to put out in the communities to not deal in a negative way with neighborhoods, but to do a positive campaign, have a presence in the neighborhood, and it really has brought crime down.

And it is amazing to me that they would want to cut off that program, but of course that is what they had in mind, just as they did not want to do the second installment of the teachers.

We know when we look at the education system, a young child, and I had a forum in my district, and I remember the Vice President, Mr. GORE, came out. One of the students stood up, and she must have been, gosh, I think about 12 years old. We asked her, what is the most important thing in the classroom? What do you think is the most important thing? And she said, the most important thing is the quality of the teacher in the classroom. This is a young student. And I believe that. Trained teachers, teachers that are teaching to 20 students versus 40 students, it makes a big difference.

Of course, I am from California, where we have had at a State level an initiative to bring down the class size by hiring more teachers, et cetera. We have seen an incredible difference. I have first grade teachers, where we have implemented this in first and second and some of third grade, I have had the first grade teachers tell me, my students are learning to read. The difference is that I only have 20 to teach, and I can spend the quality time with them and understand the individual problems that they have in learning to read better than when I used to have 40 children in the classroom and it was more of a disciplinary problem, and I had to watch what was going on, and I could not spend individual time with students because there were so many, 39 others running amok.

The first grade teachers will tell us the difference is that they have a smaller class size and they can understand the individuals. Gosh, when we look at this Columbine situation and the school safety issue, and we look at what these students are really telling us, when we look at what is happening, it is a need for attention.

When you have a smaller class size, a teacher can see, are there problems with this child? Might they be having problems at home? Do we need to get some help for them? Can I sit down and talk something through with them? It is much harder to do for 40 kids in the classroom than it is on an individual basis.

I hope that people will understand why we have been here fighting as Democrats, and it has been because we care about what is happening in the public school system. We want to fix it.

We want to help it. That is through a myriad of programs, not just more teachers, but the teacher training grants that we have approved, the technology, which is such a need in the classroom.

I hope they will also understand that we have also been fighting to keep safety, to keep the crime rate down, to keep this safety issue out there by fighting for the COPS program.

These have been just incredibly important issues as to why we have been here, in addition to the health care factor that the gentleman mentioned earlier, and of course, the prescription drugs, and things that we just have not been able to get through because the leadership of this House, the Republican leadership, has closed an eye to it and do not want to push this type of thing through.

Mr. PALLONE. Mr. Speaker, I just want to thank the gentlewoman for coming down. What the gentlewoman has said is so true. I do not really understand, we see my colleagues on the Republican side talk about education, but when it comes to actually trying to provide the funding that is going to go back to the local towns and help with property taxes to pay for education, they do not want to do it.

The gentlewoman remembers that we were here a year ago trying to adopt a budget, and again, one of the major sticking points was their unwillingness to fund this 100,000 teachers initiative. I know when I go back to New Jersey, and basically in all the school districts, they say it is great. They like it on a bipartisan basis, because frankly, it not only means more teachers and smaller class size, but also it saves them money that they do not have to hire the teachers because they get the Federal dollars.

The other initiative that is part of the unfinished agenda which the Republican leadership has refused to deal with is the school construction initiative. We have been talking about that now for several years, as well. That was sort of the second part, to bring down the class size and then provide some Federal dollars to help with school construction. That was for renovation in urban areas for older schools and also in the suburban areas where we have split sessions, and they cannot afford to build new schools to help pay for that, too. Yet that is not going to be in this budget because they say that is too much. They do not want the Federal government involved.

I do not know how the Federal government helping local schools pay for school modernization is somehow ideologically a problem, but this is what we hear from the Republican side of the aisle.

Ms. SANCHEZ. If the gentleman will yield further, they do say that. They say that they do not think at a Federal level we should be involved.

We have proposed to them programs that work wonderfully; for example, school construction bonds, the whole issue of at a local level an entire community has to decide that, yes, in fact they need new schools and they are willing to pay for new schools. They have to pass a bond issue; if they would do that, if they would do the work, and then of course the building of the schools and all of that is still under local control.

We have a lot of propositions here in the House that would say, you pay the principle on the bonds and we, those people who purchased those school bonds, will get a tax credit on their income tax form, $1 for $1, where they do not have to send the money to Washington. Instead, they get the tax credit on their income taxes. What does that mean? It means that the Federal government basically picks up the interest cost on the bonds. That is about a 50 percent match.

It has two of these Republican types of issues with it; one, keep it at a local level. They have to approve it locally, they have to work it locally, and the local community wants it, needs it, and decides to do it. And secondly, do not send your money to Washington, do not send us the money, keep it as a tax credit. It fits right in there their philosophies of less money to Washington, but still this whole issue of constructing schools is just something that they do not want to do, at a time when I look in California and we have such a need.

One of the districts I represent, Anaheim City School District, it is growing at twice the rate in school enrollment of children as the five fastest growing States in school enrollment across the Nation, twice as fast. It grows by about a thousand students a year. That is a new elementary school every year. Yet, they have the same number of elementary schools they had as when I was going through the school system 25, 30 years ago.

It is amazing. They go year round, four-track. They never have a summer anymore. They do not have a traditional school, they have different tracks going. They send their kid for 8 weeks, and then he is off for a week. Then they send him for another 8 weeks, et cetera.

Every time that the teacher finishes that 8 weeks, she has to pack up her classroom, put it in storage, go away for a week, come back, unpack the classroom in a different school building. Imagine if you are a professional, imagine if we had to pack up our offices every 8 or 9 weeks here, how much work we would really get done.

They have gone to double sessions, so not only do they have this year-round school going on, but they have an a.m. and p.m. session with their kids, which means some kids start to eat lunch at 9 in the morning, and some kids do not get lunch until 2 p.m. in the afternoon. They have sessions at which kids, they have only so much room outside for kids to sit down at the picnic tables.

Besides that, they have portables all over the green grass area, so the kids really cannot go out and play anymore because they now have portable classrooms. In fact, I have a school system that, if you took the number of portables they have on the school sites, on the current permanent school sites, and you took them off and you actually made the equivalent of new school sites, you would have 27 new school sites versus the 26 existing school sites. That is how crowded it is getting in California.

Mr. PALLONE. We have the same problem in New Jersey, maybe not as severe. But I know that the State legislature now is struggling to pass some sort of school bond modernization initiative. Obviously, if we could get money from the Federal government, it would make such a difference.

Again, we talk about the school modernization, and that is nowhere to be seen in this budget. We just have to press for it as part of this unfinished agenda when we come back.

Mr. Speaker, I yield to my colleague, the gentleman from North Dakota (Mr. POMEROY), who has been down here many times talking about these issues.

Mr. POMEROY. Mr. Speaker, I thank my friend for hosting this special order, because we are at the end of the session. I think it is time to take a look back at what has been accomplished over the past year, or in this case, unfortunately, what has been left needing and deserving of action.

Let us just go through the issues, ending with the budget issues, which are still being wrangled about even as we visit on the floor this afternoon.

A Patients' Bill of Rights. I think if we look at issues that enjoy very broad support across the country, and indeed, a very significant bipartisan support in this Chamber, it would be the drive to give health insurance policyholders greater protections that their medical care decisions will be made between the doctor and themselves, not by some intervening HMO official.

That seemed to be a very clear-cut issue. After significant discussion in this Chamber there was a vote, and it was a strong bipartisan vote to give patients meaningful protections relative to their HMOs. Unfortunately, we saw the Speaker turn around and do everything possible to sabotage that bill in the conference committee, refusing to appoint to the conference committee even those who had been supportive of the legislation; in fact, sandbagging, so this bill which enjoyed the strong vote out of the House was doomed to failure in conference committee. The result, of course: no legislation on the Patients' Bill of Rights.

Mr. Speaker, we started the year with a very, or actually at the end of the school year we had the terrible tragedy of Littleton. It drew our attention to certain essential gun safety actions, very measured but prudent steps we could have taken: child safety locks; dealing with the gun show loophole, making the sale of guns at a gun show context somewhat similar to

what it would be under a licensed dealer, be it a retail vendor, a hardware store, or what have you.

Again, there was broad national support for those measures, and yet, it was stymied within the Chamber and no further effort to bring it forward, even though the Speaker in this instance, unlike the Patients' Bill of Rights, said he did intend to have a response move forward; ultimately sabotaged by his own people, and nothing happening on the gun safety issues.

An issue that I have seen coming on and coming on very strong is the need to address the soaring cost of prescription drug medications. That is especially true, and certainly it had been my hope that this would be the Congress where we could take steps forward to address this issue in one of two ways. I think the best way to address it would be to fold in some type of prescription drug coverage in the Medicare program. I hoped that that could be achieved.

In the alternative, in the event that questions about the financing of that would prove too tough to deal with, we could address pricing differentials, because it is very clear that right now the drug companies are selling below cost to their favorite customers, like the HMOs or Federal agencies, and coming back and having people paying these prescription drugs out of pocket.

Our seniors on fixed incomes so often need these prescription medications for their very health maintenance, and unfortunately, this is going to be a Congress leaving town without having done one thing relative to prescription drug needs of our seniors. I just think that is what has become another in a long string of failures.

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We are heading into an election year. We had a chance to address campaign finance reform. No campaign finance reform coming out of this Congress. Another in a long litany of failures.

In addition, one of the things that I had hoped we could really achieve, especially in this situation, would be to strengthen the Social Security Trust Fund, extend the life of its solvency. Move now to address the needs of baby boomers in retirement. We had the plan. We had the opportunity. Unfortunately, not one hour on the floor of this House has a measure been discussed to lengthen the life of the Social Security trust fund.

We did see, I will say with Social Security, I think, some very clever sleight-of-hand by the majority. They tried to deflect the discussion from the Social Security Trust Fund and its long-term solvency to whether or not funds from the Social Security revenues were being spent on the funding of government. All of their argument did not have anything to do with strengthening Social Security. None of their arguments go to lengthen the life of the trust fund so much as one day. But they drove the point: The Democrats were going to raid Social Security for wild spending programs, and they were going to put a stop to it.

Mr. Speaker, we know the score, and I have got the score revealed here on this chart. This is from the Congressional Budget Office. About $14 billion in general fund surplus to support additional spending. And now we know that even as the deal is being put together on the final spending of this Congress, we are going to be into the Social Security program at least $17 billion and, quite potentially, much larger than that. So although they did not lengthen the life of the trust fund one day, they spoke a lot about not spending any of the Social Security surplus. The Congressional Budget Office makes it very clear, Social Security money is being spent under their budget plan.

I think, in total this constitutes really an abysmal year in terms of lack of action on the one hand coupled with action that is not helpful on the other hand. I would hope that next year we could put forward a much better record of accomplishment for the American people. Because in the end, I think a congressional session like this should not be about setting up the next election. The elections are about having us work together, putting aside the overheated, overblown campaign rhetoric and getting into the Chamber and rolling up our sleeves, bridging our differences and forcing solutions for the American people. That is what they expect out of Congress.

So perhaps, and I would have to say there is some unlikeliness to this, but even though the 2000 elections are going to be looming large next year, it would be my hope the majority leadership would concentrate on the task at hand and that is doing the people's business. Let the 2000 elections take care of themselves. I yield back to the gentleman.

Mr. PALLONE. Mr. Speaker, I thank the gentleman. I just wanted to say with regard to the remarks that the gentleman from North Dakota made, there is no question that we have to put on the pressure with this Republican Majority when we come back to try to deal with this unfinished agenda.

The one thing I wanted to mention very briefly is that we have already put in place a rule to bring up a discharge petition on the price discrimination and the prescription drug benefit. We have one bill that would basically deal with the price discrimination by putting in place a Federal remedy, and another that would provide for a prescription drug benefit under Medicare. We are going to make sure when we come back that we get the petition signed and that we force that issue to the floor, which we have had to do with every one of these issues, unfortunately. Take that extraordinary means of a discharge petition, which should not be the case, but unfortunately that is what is necessary to get the Republican leadership to move in the House on every one of these issues. HMO reform, campaign finance reform, gun safety, every one that we could mention we have had to go that route.

Ms. SANCHEZ. Mr. Speaker, I would agree with the gentleman. We have had various petitions and, hopefully, there will be another way when we return in January to try to get the prescription drug issue to the floor.

I just want to wrap up my comments with respect to what the gentleman from North Dakota said about Social Security. Let us face it. Next year is going to be a very difficult election year with control of the House, in particular, up for grabs. I think it will be very difficult to move legislation through. This would have been really the ideal year to take a look at the Social Security issue and shoring it up.

Why? Because we have the time to do it. Because we have a surplus for the first time to be able to take a look at where the monies are spent. And because there are still inequities. Just looking at the 2013 year where we will have the switch over and there will be a deficit fund gathering for Social Security. But there are still inequities in the program that we have, like the notch babies. All of these issues. They do not affect a lot of the population, but they affect people who have been working very hard all of their lives and somehow along the line got something done, a law passed here that was against them for really no reason.

We really need to take a look at this restructure of Social Security, make sure that it is solvent, make sure that we are putting the monies aside today for tomorrow when we will need them. And it is a shame that this Congress was unable or unwilling, that the leadership in this House, the Republican leadership, was unwilling to address the Social Security reform issue.

Mr. Speaker, with that I yield back to the gentleman from New Jersey.

Mr. PALLONE. Mr. Speaker, I appreciate the gentlewoman from California bringing that up, because I guess we can take some solace in the fact that at least we stopped this tax break for the wealthy and for the corporate interests. Because if that had passed and the President had signed it, then there would not even be the money available in the surplus as it grows over the next few years to even address the Social Security and the Medicare prescription drug issue. So I guess we have to kind of be happy for small victories, so to speak. At least that did not happen. I agree completely.

The President started out the year in his State of the Union address last year saying he wanted 1999 to be the year when we addressed the solvency of Social Security and Medicare. Basically, the Republican leadership made that impossible, but we just have to try and work harder next year. We are going to be down here on the floor every day in January and February making the point that these issues, this unfinished agenda, have to be addressed.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 80. Joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes.

The message also announced that pursuant to Public Law 105–277, the Chair, on behalf of the majority leader, announces the appointment of Deborah C. Ball, of Georgia, to serve as a member of the Parents Advisory Council on Youth Drug Abuse for a three-year term.

ISSUES, NOT SOLUTIONS

The SPEAKER pro tempore (Mr. NUSSLE). Under the Speaker's announced policy of January 6, 1999, the gentleman from Colorado (Mr. TANCREDO) is recognized for 60 minutes.

Mr. TANCREDO. Mr. Speaker, I must say that I had originally requested only 5 minutes, but a number of things have happened in the last several hours that have forced me to come back and request more time to address the issues that I wanted to bring to the attention of the body today.

Certainly, some of the things that have been discussed by previous speakers here lead me to take the floor today and to do so for at least some more time than 5 minutes.

When I was in high school, our class used to have the task at the end of the year of coming up with a motto, among other things, to attach to ourselves for the rest of eternity and it would always be placed in the little book, the annual. It would say the class motto was such and such for this. Mr. Speaker, I have a suggestion after listening to the discussion for the last hour. I have a suggestion of what our colleagues on the other side of the aisle might use for their class motto this session, and it would be this: ''Issues, not solutions.''

Mr. Speaker, let me just suggest that as the class motto for the Democrats of the 106th Congress. That their real purpose is to have an issue to run on and to avoid the possibility of achieving a solution in this body at all costs.

Now, I say that recognizing that it is certainly not a revelation. I bring to the body that this is the strategy that the Democrats are employing. I say that because the minority leader has said that. The gentleman from Missouri (Mr. GEPHARDT) has indicated in articles that I have read, and certainly have been brought to the attention on the floor in the past, that it is his purpose to try and present as many obstacles as he possibly can to the accomplishment of the goals established by the majority in the area of education reform, in the area of tax reform, in any area important to the people of the country, there they would be.

It is not surprising, therefore, when we look at the majority responsibility of the Congress, that is the passage of 13 appropriations bills, that when we look at how that eventually got done, it got done without the help of our Members on the other side. Without the help of any of them. Maybe three or four at a time would come on board, but almost always it was the Republicans in the Congress that had to carry the load because everybody over there was going to play hard ball because they want issues, not solutions.

The last thing they want, in fact, is a solution to the problem. So much rhetoric has been devoted to the Social Security issue. I am so glad to hear that at least there is a concern on the other side with regard to Social Security and, in fact, holding it sacrosanct, because that is a very interesting thing. We, in fact, passed a law, passed a bill out of this House. It went over to the other side and that law was designed to, in fact, codify this idea of holding Social Security sacrosanct. Not using it for the general fund. Something that we even hear the President saying that he agrees to.

But what has happened, Mr. Speaker, I ask? Where is that bill? And why is it not now part of the solution to the Social Security issue?

Well, of course, it is because the Senate Democrats have had a filibuster. The issue has been brought forward five times at least in the Senate, and each time it has been filibustered by the Democrats and essentially killed.

So where is the desire for the solution here? It is not their desire. It is, in fact, to maintain an issue to go into the next campaign with.

Beyond that, when the discussion resolves to the next stage, and that is the fix for Social Security, where is the President's plan for that? Has anyone heard of the President's plan? I certainly have not. I recognize fully well that the continuation of the Social Security system is in great, great jeopardy; and we must do something to change that. And I do not even suggest for a moment that not spending Social Security funds for general fund purposes will solve the Social Security problem. It will not. It does, in fact, however, slow the growth of government quite dramatically and makes us a little more honest to our constituents. Those two things are pretty good things in and of themselves.

But if, in fact, there is such a desire to fix Social Security, then of course we should hear something out of the White House about how we should go about doing that. That would be nice. That would be good. But we have not. Why have we not heard that, Mr. Speaker? Let me suggest the reason is because it does not fit the motto. The motto is, remember: ''Issues, not solutions.''

COLUMBINE HIGH SCHOOL AND GUN CONTROL

Mr. TANCREDO. Mr. Speaker, let me go on to the purpose of my original request for this time to speak. It is my understanding that today a group of Members of this body held a press conference in which they unveiled a clock of sorts. And this clock, I am told, has recorded the amount of time, minutes and hours and days, since the event at Columbine High School. And it is meant, I suppose, well, I know it is meant as a political gag in order to try and embarrass the Congress for not having, quote, moved ahead on gun legislation.

Mr. Speaker, I can understand the desire on the part of a lot of people, especially as we move to the very end of the session, to grasp at straws to do the most outrageous things in order to try to get the attention of the general public and in order to try and score some sort of political advantage.

1545

But I must say, Mr. Speaker, as the Representative from Columbine, from that area, the school is half a mile from my home, and my neighbors have children there, and we suffered through this event together.

I must tell my colleagues, Mr. Speaker, that to have this kind of political shenanigan pulled at this late date to try and remind us of when Columbine occurred, let me tell my colleagues, Mr. Speaker, there is not a parent in my district, there is not a parent of a single child who was murdered at that school or injured in that school who needs to be reminded of when that happened.

There is not a single living soul in my district that needs to be told when that occurred, how long ago, because it is etched indelibly in our memories and in my mind.

To suggest that any action taken subsequent to that time by this Congress could possibly have changed the situation there is, of course, both ludicrous and hypocritical. It is especially hypocritical, Mr. Speaker, because of course this Congress did attempt to address the issue of gun safety.

There was a bill, Mr. Speaker. There was a bill. It made it to the floor. H.R. 2122. Now, maybe it was not a perfect piece of legislation. There were certainly things about it that I had concerns about. But let me just go it just to remind all of us what exactly it was that we were talking about in that particular piece of legislation.

Under current law, background checks are not conducted at gun shows concerning transactions by private vendors but, instead, are only required of Federal licensees. This allows for a loophole of sorts in the acquisition of firearms.

There was an amendment proposed as a matter of fact by a Democrat, by the gentleman from Michigan (Mr. DINGELL). That amendment I believe was the most accommodating option, both in keeping guns out of the hands of the criminals and in protecting the rights of gun owners across the country. Certainly it was controversial. There were many people in my own district, certainly people in my own constituency that said it still went too far. As a

matter of fact, I was the only Member in my delegation to vote for this. It was, in fact, the best possible option of all the options I think we had available to us.

By the way, the Dingell amendment would have, in fact, closed that loophole, would have required someone that was a private vendor to do background checks on people purchasing guns.

The argument revolved around the length of time that would be allowed for these checks to be completed and that sort of thing, and those were arguable points. I will not say that they were not. It was not, as I say, a perfect bill. But it was a Democrat amendment that achieved about 45 or 50 Democrats in its support originally, and then it became part of the bill.

The next amendment dealt with large capacity devices. They prohibited the manufacture of large capacity clips, ammunition clips. Another one prevented juveniles from possessing semiautomatic assault weapons. Another one made it mandatory to provide trigger locks and safety devices when guns were purchased.

Another amendment qualified current and former law enforcement officers to carry a concealed weapon whereby allowing them to continue to serve our communities as safety personnel. In a way, this is something that my friends on the other side have been pushing for all the time, that 100,000 cops. Well, this is a way of putting a lot of police on the beat. These are retired former law enforcement police officers who could be carrying weapons and protecting the community.

Another amendment in that particular bill said that, when guns were pawned for more than a year, they would not be returned to their owner until they pass an NIC background check.

This amendment makes sure that, during periods when the firearm is under the possession of the pawn shop, that the original owner does not undergo circumstances which would hinder them from possessing the firearm. Likewise, it allows for checks to be done on the pawned weapon so as to make sure it has not been stolen.

Then the juvenile Brady part where the amendment would prohibit persons who commit violent acts of juvenile delinquency from possessing firearms as adults.

All right. Those are the parts of the bill, the most significant parts of the bill, H.R. 2122, that came to this floor.

After a great deal of debate after originally supporting that, my colleagues remember what happened. My colleagues may recall, Mr. Speaker, how that all played out. I often think of that cartoon, the Peanuts cartoon, and that character when Lucy is holding the ball that Charlie is coming to kick. Just as he gets there, she pulls it away, and he falls back. That is in a way what the Democrats did with that bill.

They put this bill out there. The Dingell amendment was part of it. We assumed, of course, that we would get some support, although it may not have been perfect, because when was the last perfect piece of legislation that passed this body. Every piece of legislation is made up of compromises on both sides of the issue. Certainly it was not perfect for me. But I also knew that it was going to be the best chance we had of getting this kind of legislation out of this Congress. So did the other side, and that is my point. They also knew that that was the best chance we had.

So what happened, Mr. Speaker, after all the rhetoric about gun legislation, and I asked the people across the street holding press conferences and unveiling these clocks, telling us how long it has been, and people holding up replicas of tombstones saying ''rest in peace gun control measures,'' I want to ask them where they were on the day that H.R. 2122 came to the floor.

I will tell my colleagues what happened when that bill came to the floor. It failed. It failed with 198 Democrats voting no, 81 Republicans voting no. Let me say that again. The chart depicts this: 198 Democrat no votes, 81 Republican no votes. The final vote, 147 aye, 280 no. The 147 broke down in the following manner: Republicans, 137; Democrats 10.

Now, I do not know, I have heard of awards that are given annually, maybe monthly, or something by various members for the pork of the week award. There are all these things that are picked out, and people, individuals get sometimes these awards that are not really all that much appreciated.

I am not sure, but perhaps we should come up with a chutzpah award because I cannot think of a better word, a fine Jewish word to explain what we are talking about here when somebody can actually stand up here in this body and tell us that we have prevented the movement of this kind of legislation of gun control legislation when this is the fact of the matter: 198 Democrat noes. 198. Republican noes, 81.

Who stopped it? Why did they stop it, Mr. Speaker? The answer I believe is the answer I gave at the beginning. It is the motto of the Democratic class of 1999 in the House of Representatives. The motto is: ''Issues, not solutions. We want problems to carry forward.''

Mr. Speaker, I received just a little bit before I came over here a communication from Mr. William Maloney. Mr. Maloney is the Colorado Commissioner of Education. This is not a political position. He is appointed by an elected board. It was a communication that I did not prompt, I did not request, and it is in response to the events, I hate to even characterize it as a press conference, because a press conference would indicate that there was something newsworthy about it, but it was the event to which I referred earlier, this thing where they unveiled this clock that is supposed to remind us all how long it has been since Columbine.

Mr. Maloney puts it very, very clearly and very succinctly and articulately. Remember, Mr. Maloney is the Commissioner of Education in Colorado. It is a nonpartisan position. He says the following about their antics, and I will say antics rather than activities:

''We would deeply regret that anyone would address the Columbine tragedy without any consultation with those who were most deeply involved. To do so in a simplistic fashion is to disrespect the full dimension of this tragedy and the diverse and earnest efforts being made to deal with it.''

Mr. Speaker, I suppose I cannot say much more than that, and perhaps do not need to. I hope the point has been made. Issues, issues, not solutions. Certainly not everything that has been proposed, not just on gun legislation, but anything else, not everything would have completely solved these things, but many would have come close, Mr. Speaker, if there would have truly been that bipartisan desire to get the job done.

There is plenty of partisan wrangling that goes on during the course of one session of Congress. Even though I am a freshman, I am certainly well aware of that. To a large extent, I think it is fine, healthy, and appropriate.

We have, of course, very legitimate clashes of ideas that are articulated on the floor of this House. We disagree on the size and scope of government. That disagreement, that very basic disagreement that usually separates the two sides plays itself out in many interesting ways.

I will never forget the day here on the floor of the House when the final vote was taken on the tax relief measure. I was proud to be a Republican, perhaps more so than any other time since I have been here in the past 11 months, because we were actually doing something that was very, very characteristic, I thought, of Republican principles.

So it is absolutely appropriate for us to be divided on those issues, have battles on those issues, fight it out on this floor, go to a vote, everybody doing what they truly believe in their heart of hearts should be done because of their commitment to what is good for the country.

Mr. Speaker, sometimes other things happen, other things happen here, and decisions are made and events occur that really are not based on those heartfelt opinions and ideas. It is based on sheer, pure politics. I would say to my colleagues that when we look at the issues as we approach the next election, be very, very, very discerning. Mr. Speaker, be discerning and try to determine whether or not they are being brought to us for purely political reasons or because in fact there is concern about the way they would have affected the outcome of America.

Mr. Speaker, I yield to the gentleman from Colorado Springs, Colorado (Mr. HEFLEY).

Mr. HEFLEY. Mr. Speaker, I appreciate the gentleman from Colorado for yielding. I have to admit to the gentleman from Colorado (Mr. TANCREDO) that I was not back in my office hanging on every one of his words. But when I realized he was doing this special order, I hoped he was doing it in reaction to the news conference which was held earlier today, the made-for-TV political news conference that was held earlier today. I wanted to come over and just visit with him a little bit about this thing.

Columbine for the gentleman from Colorado (Mr. TANCREDO) particularly more than anyone else in this chamber, for him particularly, was a hard-hitting experience. Because this was in his district. But it adjoins my district. I have some addresses that are Columbine addresses.

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And I do not know of any tragedy like this that has hit me so hard in a long, long time. It was a terrible tragedy to the folks that experienced it and to all of us in Colorado and, I hope, across the country.

The day after this tragedy, this tragedy I believe occurred on a Tuesday, on Wednesday the chairman of the Democratic National Committee from this House was standing before his colleagues in his conference saying this is a great political issue for us, a great political issue for us, and we need to flood the Congress with gun control bills because the Republicans will vote against them and this will be a great issue for us in the next election.

I was appalled. I was offended, I was disgusted that someone would jump in and make political hay when my heart was broken. We had had a terrible tragedy, and this was going on.

I also noticed that as we went through the debate and discussion about gun control after that, because they did exactly that, flooded the Congress with gun control bills; and as I looked at each one of those, it was my opinion that not a single one of them, had they been law prior to Columbine, would have altered the Columbine experience one iota. I think there were 18, 20, 21 laws violated there already. None of these new laws would have done anything. None of the laws that they were talking about at that news conference in the basement of this Capitol would have done one thing to alter the Columbine experience or to prevent an additional Columbine experience.

One thing that I think might help prevent something like that is if we would enforce the gun control laws which are on the books right now. And the gentleman has probably said all this, and better than I can, but if we would enforce the laws that are on the books right now, which this Justice Department has had a dismal record of enforcing the gun laws that are on the books, absolute dismal record. And in an instant or two that I am aware of, where a U.S. attorney or assistant U.S. attorney has taken it into his own hands to be strict in his enforcement of gun law violations, the gun crime rates have dropped like a rock.

But the Justice Department does not like that. In one case they were even trying to get a U.S. attorney fired because he was enforcing the gun laws too strictly. Now, what can I assume from that? All I can assume from that is if we actually did enforce the laws on the books, and if it did reduce gun crime, then there would not be the motivation to accomplish their goal, which is to take away private ownership of guns in America. I do think that is this administration's goal.

So we do not want to reduce the rate of crime with guns, because if we did that, then they would not have that argument. That is appalling as well. We need to enforce the laws that are on the books and stop making phony political hay out of one of the worst tragedies that has occurred in this country in a long, long time.

I thank the gentleman for having this special order and giving me an opportunity to express, too emotionally, but I feel emotional about it, some of my feelings about this situation.

Mr. TANCREDO. Well, Mr. Speaker, I thank the gentleman for his comments; and I certainly and completely understand the degree of emotion that is connected with making them because I assure the gentleman that I empathize in that regard.

I do not think, in fact I know, that there has been no more difficult issue with which I have had to try to deal than the issue of Columbine High School, not just from the standpoint of the pure politics of it, the issues of gun control and the rest, but the neighbors that I see when I go home every weekend and the children that I see and the concerns I have, Mr. Speaker.

And just perhaps for a moment, if I could be allowed, I would reference those concerns and ask for the prayers of America to be directed to the parents and to the children who are still suffering to this day. We are seeing every time when I go home this subject being brought up, and the papers play it up, and there are some very good things, positive things that are happening in terms of children being healed, children coming out of the hospital who are now walking, these kids that were so terribly wounded in this. Then we will have another setback, and we had one not too long ago, when a mother of one of the students took her own life.

And it is so hard for us to understand. We think about how much pain any community, any family can deal with or can endure. How much can we endure? And I look at those students, as I say, those children who are recuperating, and I thank God for their recuperation. The physical signs of healing are there. Their scars are healing and we can see that, and that is good and as it should be. But, Mr. Speaker, what we cannot see are those scars that do not manifest themselves on the outside of the body. They are the scars in the mind and in the heart and on the soul, and they do not heal as quickly as the scars on the outside.

We do not see people coming out of the hospital being welcomed home with flowers and friends. We do not see how they live through the agony of this thing and are tormented by the thought of Columbine over and over again. And fear, fear in their hearts, fear of going to school, fear on the part of parents in taking their children to school, because they do not know what is going to happen and because they feel totally helpless. These are the things with which we are still dealing.

And I can tell my colleagues, my friends who had this press conference giving us the clock, they do not have to tell me when this happened. I know exactly when it happened, and so do those parents. And what they have done today does not help the healing. In fact, Mr. Speaker, one might even suggest that it digs deeper at the wound. And that is why I do have emotion in my voice; and I am filled with emotion about this, because this is not just a typical political debate or fight we are having here. These are about real people whose hearts have been broken, and it disgusts me to think that they are being used as pawns in this political battle.

But that is the only way I can see it right now. Because, Mr. Speaker, we could have had at least attempts at solutions. Although I was the only one, as I say, that voted for the bill, I know my colleague did not vote for the bill that I referred to, I was the only one from Colorado to have done so, and I know in my heart that that bill would not have changed anything had it been in place, I understand full well that there is really so little, in fact, we can do.

But what little we can do to have somebody then stand up later on and blame us, blame this side for not having moved this process along, when as anyone can see, 191 Democrat noes on the bill to 80 Republican. It was not us. But even had this passed, we would not be safe in our schools, we would not be safe on our streets. Much, much more has to occur.

And in a way, my fear with this particular piece of legislation, and all the others that were suggested, I had this great fear in my heart that if we had passed them, that in fact people would have walked away from the table thinking, oh, good, now we have done something to stop violence.

And here is another aspect of this, Mr. Speaker, that I failed to bring out. Just the other day, in Decatur, Illinois, when there was an act of violence that, thank God, did not end up with someone being killed, but it was a very, very harsh violent act committed by several students, what did we hear in

this House about that? Would Jesse Jackson, who has now involved himself in this whole thing, would he have been there if one of those students had been carrying a gun, even if no one had been hurt? I think not.

So is the real issue school violence? Are we really worried about juvenile violence? Are we trying to do something about violence, or are we just trying to look at the political advantage we can get out of the ''gun issue ''? How come there has not been an outrage voiced in this House about Jesse Jackson's involvement in this thing and his attempt to intimidate the school board to put these kids back in school when they did the absolute right thing in throwing those kids out of school.

If I had had time, Mr. Speaker, we are at the closing minutes of this session, perhaps days, I do not know how long we have, but I know it is not going to be too long, but if I had had the time, I would have issued a resolution commending the school board for their actions. Because, of course, that is the kind of thing that can help us avoid the next Columbine tragedy, the absolute avoidance, the zero tolerance policy for any sort of violence on a school campus or at a school event. In this case it was at a game.

I do not know if my colleagues saw the videotape of this, but I can assure them that this was not just a couple of school bullies roughing up some of their classmates. These were very violent young men. And as I say, I thank God they did not have a gun or some other weapon, and I thank God today that there was not even severe damage done even without the use of a firearm. But the fact is that there should have been just as much outrage expressed in this House at any attempt to quiet that school district or to intimidate that school district into putting those kids back in school. But no, we have not heard a word about that.

Well, I would tell my colleagues they did exactly the right thing, and I commend the school board for it and I hope they stick to their guns and do not be bullied by Jesse Jackson. They did what is right. They should keep those kids out of that school. Those are the things that can help us, Mr. Speaker, those and hundreds of people, thousands of people, millions of people around this country changing their own hearts, connecting back with their own families, thinking more about how they raise their own children, and what can be done not just maybe for our children but for our Nation's children and becoming a community again.

All these things matter more than this bill would have ever mattered, but it was a stab at it anyway. It was killed by Democrats because they want issues not solutions.

OPTIMISTIC ABOUT SECOND SESSION OF 106TH CONGRESS

The SPEAKER pro tempore (Mr. EWING). Under the Speaker's announced policy of January 6, 1999, the gentleman from New York (Mr. OWENS) is recognized for 60 minutes.

Mr. OWENS. Mr. Speaker, I appreciate the emotion of the previous candidate, the previous speaker, and I think that it is altogether fitting that we not come to the floor and waste the time of anybody unless we do feel strongly about what we have to say, and I certainly feel strongly about the remarks I intend to make at this point.

We are nearing the end of a session, it is a matter of hours now, and I think all of us feel very strongly about what was or was not accomplished during this first session of the 106th Congress. I think we should look forward to the second session of the 106th Congress with optimism. I am optimistic about the second session of the 106th Congress, and I am going to talk about the reasons why I am optimistic.

I regret greatly the fact that we have not dealt with very crucial issues. We did not even put the minimum wage increase on the floor for a discussion. We refused to have a dialogue and to share with the American people the concerns of many of us that in a time of unprecedented prosperity, when great amounts of money are being made by the top 5 percent of the population, the population with the income in the top 5 percent, we are not willing to give an increase of $1 an hour over a 2-year period to the people who are at the very bottom earning a minimum wage. I regret that greatly.

I regret the fact that we have not done an HMO patients' bill of rights.

I regret the fact we have not dealt with campaign finance reform. This House at least passed a bill, and the other body did not deal with it.

I regret the fact that we are still refusing to come to grips with the magnitude of the problem with education. Everybody talks about education, but we have just been allowed to play around at the fringes by the Republican majority this year.

We did at least deal with reauthorizing Title I, which is the most stable Federal participation in the elementary and secondary education process. We did at least tinker around with that.

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We tried to make it worse by reducing the amount of funds being directed to poorest children. There are some problems there. But at least we put it on the table, we brought it to the floor, and we dealt with it. We have not dealt with school construction. We have not dealt with the magnitude of a kingpin problem.

If we do not deal with the physical infrastructure of the public education system, we are sending a message that we really do not care about the system. All the other things we do will not matter if the physical infrastructure cannot carry out the task that we have set for our public education system.

But I am optimistic about that. I am optimistic about the fact that we will come to grips with the problem of school construction and the large amounts of resources that are going to be needed for that. The fact it is going to require billions and billions of dollars is no reason to back away from it. Because we are able to come up with billions of dollars for an interstate highway system and the continuation of the highway program.

We authorized $218 billion in the last session of the 105th Congress. We saw the problem as being big. And despite the fact that nobody wants to be tagged with the label of being a big spender, that highway bill certainly spent large amounts of money to deal with a monumental problem.

We should look forward to the second session of the 106th Congress with optimism. Because the fact is that the public out there clearly has made it obvious what their priorities are. And eventually the Republican majority is going to respond to what the public is saying through the polls and through the focus groups and understand that next year's election cannot go forward with a record of ignoring what people are saying over and over again about education, about Patients' Bill of Rights, about the minimum wage. All these things have to be dealt with.

I am optimistic about the year 2000, our first year of the 21st century and the second session of the 106th Congress. I am optimistic about it because of the fact that it is a presidential election year.

Presidential elections are always pregnant with surprises. I am optimistic that we are going to have some positive surprises. We can have negative surprises, too. We do not want another presidential election year where a Willie Horton commercial surfaced and the whole spirit of that Willie Horton commercial pervades during the campaign and the electorate is treated to an appeal to go down to the lowest common denominator and racism becomes an overriding factor in the election.

Or the election that Ronald Reagan kicked off at Philadelphia, Mississippi. When Ronald Reagan ran for President, he went to Philadelphia, Mississippi, the place where three civil rights workers had been slain; and he kicked off his campaign there sending a message, which later was communicated in terms of the new position of the Republican party.

They abandoned the civil rights partnership that they had up to that time with the Democrats, and they became the party which promoted anti-affirmative action and a whole series of things that led downhill, to the point where when Ronald Reagan left office and George Bush became President, there was a burning of churches throughout the South.

We had generated that kind of spirit at the time. I hope that we do not have those kinds of surprises. I hope that we will be able to not spend all the time fighting a rear-guard action, a defensive action, and can focus on positive

matters. We could have some positive surprises. We could have some positive surprises which create a dialogue in this election which allows American people to really take a hard look at where we are now and where we can go in the 21st century.

The first year of the 21st century can be seen as a gateway into a new way of governing, a new way of dealing with the problems, an intellectual and mental opportunity to set our sights differently; and it could end up with some real positive achievements as a result.

First of all, I want a positive and adequate response to the number one concern of the American people. And that is education. We want a real adequate response, not a tempered nickel-and-dime response.

The response has to include not only the obvious problems that we need with respect to more funds for more teachers, more funds to deal with computers, but also the tremendous amount of funding that we need in order to deal with infrastructure problems, the construction repair, modernization, making schools more secure, et cetera.

The polls indicate a demand for this kind of action, and we are going to have to respond. There can be some other positive surprises that are taken which redound to the credit of the whole process and the American people could benefit.

Every presidential candidate, and there are more of them now, and as we get more presidential candidates, then we have more ideas introduced. I do not think that this is a bad thing. I think each presidential candidate may be good for one idea.

I want to disclose the fact right away that I am an early AL GORE supporter. I am not going to hide that from people listening. But I think that the other candidates can have some good ideas.

I think Mr. Buchanan is a candidate I can never live with because Mr. Buchanan has declared that American should be a white Christian country, which means that he really does not think there is a place solidly for me and my children and my grandchildren; and he says a lot of other things that I could never agree with.

But Mr. Buchanan should be applauded for his idea on trade, that this American Nation occupy a kingpin position, where we can almost dictate the terms for world trade, has given in over and over and over again to demands and rules that tie the hands of American workers.

We have negotiated our trade policies for the benefit of their top 5 percent, the top income bracket. They have done very well on the kinds of things we have negotiated with world trade.

Now we have a new agreement with China, which compounds the problem and we go on into the same abyss. I cannot agree more wholeheartedly than any Buchanan supporter with that particular aspect of his platform that trade is a bit of a sell-out for the American worker and we must do something to stop that. He has that one good idea. I would like to identify with that.

I would like to identify with Mr. Bradley's proposal that the Federal Government should be about doing things that are big and all encompassing. That certainly is something I would like to see Mr. Bradley develop in more detail.

I do not want a health care plan of the kind that he proposes where he wants to get rid of Medicaid. I think that is ridiculous. That is being big and stupid. That is being big and destructive. This is a big idea that could really cause a lot of suffering among people who are on the very bottom and among many of my constituents.

If you get rid of Medicaid in the process of trying to improve health care, you are going backwards and not forward. So I do not agree on that with Mr. Bradley.

But I hope he has some proposals on school construction and what the Federal roles should be in education, which are comparable to the role that they would be playing in a thing as important as education. I hope that Mr. Bradley will challenge the other candidates to come forward with big ideas.

We had a big idea when we decided to build the Transcontinental Railroad. The Federal Government built the Transcontinental Railroad, not private industry. We subsidized it. It was a big idea when we decided to create the land grant colleges and universities. Big idea. The Federal Government pushed that and created it. Big idea with the GI bill that offered education to every returning GI after World War II. Those big ideas paid off.

Medicaid was a big idea. Social Security was a big idea. All these big ideas, by the way, have been pushed and sponsored mostly by Democrats. And Democrats again should step up and provide the big idea at present.

We have to look at the school construction problem as being in the same category as the Transcontinental Railroad, as the interstate highway. We have to move in that way.

Mr. GORE, of course, has many ideas that I identify with. Mr. GORE has been there as we have had this transition of our government taking a very active role in the transition of our society into a sort of cyber-civilization, a new kind of civilization based on the Internet and computer and all the things related to that; and they have made proposals that have been very worthwhile for education and for our school system. I would like to see that continue.

And even bigger things should be made to happen by a person with Mr. GORE's background and experience and record. The track record is that the E-rate, which provides a 90 percent discount to the poorest schools for telecommunication services, was a product of this administration, which Mr. GORE is part of. The whole wiring of the schools and certain technology, literacy programs, have all come out of this administration that Mr. GORE has been a part of. We want to continue that kind of massive transformation of education and of society in general.

So I was talking about positive surprises that we may see in this election year, new kinds of activities to create a more dynamic dialogue, new ideas. And I have covered Mr. Buchanan, Mr. Bradley, Mr. GORE. And finally we come to Donald Trump, who recently made his entry into the presidential race.

I want to applaud Mr. Trump for producing an idea. I certainly am still a GORE supporter, but Mr. Trump has an idea which deserves examination. Mr. Trump has an idea which really is a blockbuster, it is revolutionary, it is sweeping, and it deserves to be considered.

Mr. Trump's idea is not so authentic that I can say that nobody else has thought about it at all, but he goes much further than most of us have gone. Certainly his idea that we should have a greater amount of tax on the richest Americans. Mr. Trump wants to impose a tax on the people who have assets above $10 million.

Now, stop and think how many people do you know would be affected by that kind of tax. He wants to tax only people who have assets above $10 million, and he wants to tax them one time at a rate of 14.5 percent and use the money realized from that tax to pay off the national debt. And then he wants to take the money that was being used every year to pay the national debt and funnel that into the system to cover the needs of Social Security; and there would be additional money left over, of course, for the safety net, Medicare, schools, education.

It is an idea which is quite broad and sweeping and has received quite a bit of ridicule by the people who have reacted immediately. However, before we dismiss it as being ridiculous, I think we ought to take a hard look at it.

I certainly find that it is compatible with a bill that I introduced a few months ago, H.R. 1099, a bill to amend the Internal Revenue Code of 1986 to provide more revenue for the Social Security system by imposing a tax on certain unearned income and to provide tax relief for more than 80 million individuals and families who pay more in Social Security than they pay in income taxes.

Now, I did not go as far as Mr. Trump did. Mr. Trump wants to tax unearned income assets. He wants to tax them far more broadly than I have proposed. And he wants to do that in order to get rid of the national debt.

I only propose a slight increase in taxes of people who have great assets, unearned income; and I wanted enough to be able to have that 80 million group of individuals and families who are paying now more Social Security tax than they are paying in income taxes.

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Over the last two decades, the biggest percentage jump in taxes has been

the payroll tax. The Social Security tax, the Medicare tax, combined, they have created a larger percentage increase in taxes than income taxes have increased. That means that the people at the very bottom who have no choice but to pay the payroll taxes are paying a greater percentage now than they were paying 20 years ago. They got the biggest percentage increase. We need to have some relief for those people.

That was my concern when I introduced H.R. 1099. I said the way to deal with that is to tax the unearned income, the assets of the richest people in order to get enough money to provide the relief for the poorest people. Mr. Trump says he wants to provide relief for the middle-income people as well. If you have a 14.5 percent tax on the assets of all people who have more than $10 million in assets, his economists calculate that would be enough to pay off the national debt. And once the national debt is paid off, you can use the interest we pay each year on the national debt in order to certainly make Social Security more secure and also to provide additional money for the safety net programs, including education and Medicare.

He wants to demand some things for that. He wants to get rid of the estate tax and do a few other things. But one should not lightly dismiss his proposal. Some people have said already, why do 14.5 percent one time? If it is a good idea, maybe you could do it over a 10-year period less, and it would not be such a shock to the economy. That makes sense. But the principle is established. The principle he is establishing is that the richest people in America can afford to come to the aid of the economy and the country and set a whole new standard, a whole new pattern for the way we deal with the budgeting in America. It is as revolutionary almost as Thomas Jefferson. The King of England thought Thomas Jefferson was a nut when he proposed that all men are created equal, that that was ridiculous. The one time that Thomas Jefferson had a chance to have an audience with the King of England, the King of England turned his back on Jefferson. He would not even talk to him. That revolutionary idea that all men are created equal was considered ridiculous in 1776. Now Trump says all rich people should step forward, and he is rich himself. He says that he is worth $5 billion, that his assets total $5 billion. He says that he would have to pay almost $700 million in this new tax that he proposes. And he is willing to do it. He says there are many other rich people who could do it, too, and never know that they lost that amount of money. They would never know it is gone.

I heard on a talk show in New York City yesterday, a couple of other rich people called in and said that they do not mind some version of this, they would not mind paying more taxes if it will help provide for decent health services and decent educational services. It is something that the rich can ponder. They would be indeed history-making. Never before in the history of mankind have those with wealth and means come forward and said, we will make a revolution from the top, from the top we will begin to deal with a problem of the redistribution of the tax burden. We always talked about the redistribution of the wealth and it would scare the hell out of people. They say you are a Communist if you talk about redistribution of wealth too loudly. But here is a rich man who says, let us redistribute the tax burden, let us have the people who are mega-millionaires and billionaires, making so much money now that it is hard for us to comprehend.

What is Bill Gates worth? Every day it jumps by billions. At the end of last year, I heard he was worth $40 billion. But he agreed to give away $40 billion a few months ago. He must be worth $60 billion now, some people estimated yesterday in the talk show. I do not know. I doubt if he knows. Because of the nature of wealth creation, it is not dependent on oil in the earth, the number of barrels that can be pumped, it is not dependent on mining gold, it is dependent on intellectual capital, people buying intellectual products, his software, his various other ventures. It is mushrooming all the time. Of course if you get a trade agreement with China, with more than 1 billion customers out there, a certain percentage of those are middle-class, well-educated, they are going to use computers too, and software, et cetera, et cetera. There is no end, it is infinite, the possible wealth of Bill Gates and the people in the various information technology industries, Cisco, ITT, it goes on and on. Wealth being created on a scale that we cannot even comprehend. If we are at this point in history accumulating wealth at that scale and most of the wealth, a large percentage of it is redounding to the United States population, 1 percent, 5 percent, the people at the very top, then is it not in order to stop and think about the fact that these people can never spend it, that it would be no harm to them to pay a greater percentage of this money than they now pay in taxes?

The Roman Empire at the point when its armies were bringing in large amounts of booty, large amounts of treasures were won by war, violence. They brought back the treasures, they made Rome rich beyond anybody's comprehension at that time. The Roman Empire leaders decreed that all the citizens of Rome should be paid. Because they had so much money, they got rid of all the taxes and they said they should be paid a certain amount of money every year, every citizen. They had that much money. And the citizens of Rome were defined in a small category. As soon as they started that policy, all the suburban Romans and all the rural Romans and everybody nearby moved into Rome. Of course it went bankrupt. It was a policy that was doomed to failure because if you define citizens of Rome as the people who live there, more people are going to come in to live there, and the booty, the treasures that they brought back from their violent conquests was not infinite. There was not a Bill Gates Windows 95, Windows 98 and other software products which as long as there are human brains and there are human brains out there working together, they will keep producing intellectual products for sale. There is a limit to how much violent conquest can produce. So the Roman policy failed. But it was a revolutionary kind of policy, to think that the treasury of a government is so great that we will give every citizen some part of it.

What Donald Trump is saying now is that we have such prosperity now and the people in his class, the billionaires and the mega-millionaires, are making so much money until they would not really miss it if you were to tax them 14.5 percent of their assets and get rid of the national debt overnight and use that interest you pay on the national debt for other things.

I think you can see now that an idea like that arouses great optimism in me. I am optimistic if that is going to be interjected into the debate in this presidential election. All we have been hearing so far about taxes is the flat tax, and everybody that I know, every honest economist has said that that is a Steve Forbes rip-off, that the flat tax will produce definitely more money for the people who have the most money already. Unfortunately, the other candidates have not talked loudly about taxes at all because the word ''tax'' is something we politicians try to avoid. Just by itself the word ''tax'' arouses great animosity among voters. Here is a man who announced his candidacy by talking about taxes. I think it is so significant that it should not be ignored. We should use it as a key for a new kind of discussion. It should set the tone for a new kind of discussion.

Mr. Speaker, I am going to submit for the RECORD the article that appeared in the New York Times on November 10 which discussed Mr. Trump's launching his presidential career by proposing a new tax. I am going to just read a few excerpts from it before I submit it. This is an article by Adam Nagourney on November 10, 1999, in the New York Times:

''Trump, describing the first proposal of his exploratory presidential campaign, said the government should impose a one-time 14.25 percent tax on the assets of individuals and trusts worth $10 million or more. That would raise $5.7 trillion, he said, enough to pay off the national debt in a single year. And eliminating the debt, Trump explained, would save the Nation $200 billion in annual interest payments, money that he said could be used for tax cuts and ensuring the stability of the Social Security system.

''The New York developer chose an unusual forum to unveil what he describes as a policy cornerstone of his

prospective campaign: a rolling series of radio and television interviews.'' In a rolling series, he will deal with these proposals again and again.

''Trump's plan met a response that ranged from incredulity to ridicule from a number of economists Tuesday. They suggested that a 14.25 percent tax would be impossible to get through a Republican-controlled Congress that has previously championed a $792 billion tax cut this year. Beyond that, they said that even if it passed, it would be problematic to measure net worth and then to tax it.''

And on and on it goes. There could be many objections made to this proposal. Mr. Trump said himself that his own net worth is $5 billion and that under his plan, he would owe $750 million in taxes in this one year. But he would profit, it says in parentheses, because a part of his plan calls for a repeal of the 55 percent estate tax. I mean, there are some pieces in there where you are going to be trading off for this plan.

Now, why am I trumpeting it here and do I think it could ever occur? I do not think so, but why not a modified version of this? Why not take a hard look at the assets of the billionaires and the mega-millionaires? I think Germany already has an asset tax, an asset tax of, I think, 1 percent. So an asset tax is not out of the question. But can we change the dialogue? The dialogue now says we will never have universal health care. We cannot even have a decent patients' bill of rights because it costs too much money. The dialogue now says we can never have all the money we need for education. Even the improvement of education in small ways costs so much money that we are retreating from that. They wanted to move away from the President's proposal to give more teachers for the classrooms and to bring down the ratio of children in the classroom to the teacher. After agreeing to that last year, they now want to bring it down very low, and with the recent proposals that have been discussed in these budget negotiations I understand have been concluded, they will honor the pledge and we will have that program restored at a slight increase, $1.3 billion I hear instead of $1.2 billion but they are going to have a proviso that allows them to take part of the money and do other things with it.

Mr. Speaker, $1.3 billion is a lot of money. I do not take lightly sums of money when they get to the million dollar mark. It is hard for me to conceive of a million dollars. I am the son of a poor factory worker who all his life worked for minimum wages. So it is all important. It is all big. But when you look at the needs that are there and you look at the needs that are there in education in modern terms, 50 years ago we would not think of spending $3.5 billion on an aircraft carrier. Fifty years ago nobody would have thought of an F–22 system, a series of planes that would cost billions and billions of dollars, or a B–1 bomber. You would not have 50 years ago talked about being able to conceive of a CIA, a Central Intelligence Agency which costs $30 billion a year to run. So in modern terms to spend $110 billion over a 10-year period to build schools is conservative, not radical. We need that kind of money. And if we happen to get that kind of money by having new taxes, the only taxes we should think about are taxes on the people who can afford to pay more taxes.

I am optimistic that the debate cannot be avoided. I am optimistic about the fact that each presidential candidate's campaign will have to step up to the plate and talk in new terms about the way we fund our government and offer new kinds of excuses about not being able to provide a decent health care system as well as a decent education system.

I include the entirety of this article for the RECORD, Mr. Speaker.

[From the New York Times, Nov. 10, 1999]

TRUMP PROPOSES CLEARING NATION'S DEBT AT EXPENSE OF THE RICH

(By Adam Nagourney)

Preparing to embark on his first trip as a prospective candidate for president, Donald J. Trump Tuesday presented a plan that he said would pay off the national debt, bolster Social Security and slash taxes by billions of dollars. Trump promised to accomplish all this at no cost to ordinary Americans, by forcing the rich to pay for it.

Trump, describing the first proposal of his exploratory presidential campaign, said the government should impose a one-time 14.25 percent tax on the assets of individuals and trusts worth $10 million or more. That would raise $5.7 trillion, he said, enough to pay off the national debt in a single year. And eliminating the debt, Trump explained, would save the nation $200 billion in annual interest payments, money that he said could be used for tax cuts and ensuring the stability of the Social Security system.

The New York developer chose an unusual forum to unveil what he described as a policy cornerstone of his prospective campaign: a rolling series of radio and television interviews. The proposal comes a week before Trump is to fly to Florida for a series of campaign-style events in Miami,the first of three such trips planned for the next month.

''The phones are going off the hook,'' Trump reported, as he combined a discussion of his economic ideas with a description of what he described as the public's giddy reaction to his foray into economic policy-making. ''I've never seen anything like this. Do you make Page 1 with this one?''

As a matter of politics, Trump's proposal—simple in its concept and framed in populist terms—seems aimed directly at the people who have supported the Reform Party since Ross Perot first called it to arms with, among other things, a call to wipe out the national debt. Trump, should he run, said he would seek to become the Reform Party's candidate for president.

It also had the advantage of lessening any liability Trump might believe he could suffer because of his own reputation as a man of wealth. The developer put his own net worth at $5 billion, and said that under his plan, he would owe $750 million in taxes (though his estate would ultimately profit if another part of Trump's plan were enacted: the repeal of the 55 percent estate tax).

Trump's plan met a response that ranged from incredulity to ridicule from a number of economists Tuesday. They suggested that a 14.25 percent tax would be impossible to get through a Republican-controlled Congress that championed a $792 billion tax cut this year. Beyond that, they said that even if it passed it would be problematic to measure net worth and then to tax it.

''I don't think the plan makes much economic sense,'' said Stephen Moore, director of fiscal policy studies at the libertarian Cato Institute. ''The fact is that most people's wealth that has been built up over 10, 20 or 50 years is wealth that has already been taxed.''

Trump's main opponent for the Reform Party nomination, Patrick J. Buchanan, offered a harsher assessment of Trump's plan. ''This is serious wacko stuff,'' Buchanan said by telephone from Albany.

Buchanan predicted that Trump's plan would cause the wealthy to move their holdings beyond the reach of the Internal Revenue Service. ''I can't think of a better idea to cause capital flight out of the United States,'' Buchanan said.

Trump said he had come up with the idea on his own and worked out its details with some private economists. He declined to name them.

He rejected criticism of his idea, demanding: ''Where is Gore's plan? Where is Bradley's plan? Where is Bush's plan? They don't exist.''

Still, it was clear that some parts of Trump's proposal remained unformed. For example, of the $200 billion in interest costs that would be saved, he said he would apply half to the Social Security system and the rest to tax reduction.

Trump said that $20 billion of that would pay for eliminating the inheritance tax. Asked how he would allocate the rest, he responded: ''All different taxes across the board. That would be determined and worked out.''

I also want to just backtrack a minute and say as we close out this session, I talked about a number of things that I wish we had covered that we did not cover.

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I was delighted when this morning I saw them put on the calendar a bill which dealt with something which I was concerned with some time ago and never saw any action on. Suddenly I got a notice that we had put H.Con.Res. 128 on the calendar, and that is a resolution to express the sense of Congress regarding treatment of religious minorities in Iran, particularly Members of the Jewish community.

Now, I said to my staff, I want to go over and speak on that. I have been waiting for that. Back in August, on August 28, I read an article in the paper and it talked about the fact that 13 Jews would not be tried in Iran as spies for Israel, and I talked to some people on the Committee on International Relations, and they said yes, we are going to bring up a resolution to deal with that, and it never happened.

In August of this year, we were still very much preoccupied, of course, with Kosovo and ethnic cleansing. One article I read, not the one I read in the paper, but a larger article in a magazine, it talked about the fact that in Iran and Iraq and the Arab countries, there was massive removal of Jewish communities going on for the last 25

years. Large numbers of Jews in large Jewish communities in these countries had been moved. Nobody ever brought forth an international outcry about ethnic cleansing, but ethnic cleansing of that kind has been going on for a long time. Now we only have tiny Jewish communities, very small amounts of Jews still in countries like Iran and Iraq, and here is a situation where a small group has been singled out for persecution.

On August 28, the article reads as follows: ''Iran's courts are prepared to try 13 Iranian Jews on charges of spying for Israel. Israel has repeatedly denied any link to the 13 who face a near certain death sentence if convicted under a 1996 law punishing spies for Israel or the United States.'' The case took on a new gravity after an official was quoted as saying ''the accused belong to a spy network directly linked to Israel and that they were spying for the United States.'' Quote, ''This regime was definitely involved in the spying,'' end of quote, an unidentified official said in today's issue of the conservative Tehran Times, which is close to Iran judiciary and intelligence services.

The newspaper said the official had also alleged that the 13 were spying for the United States. The official was also quoted as saying ''an unspecified number of Muslims had also been arrested in connection with the case. The charges mean that the defendants are likely to be tried in one of Iran's hardline revolutionary courts.''

That was August 28 of this year. Today we put on the calendar a resolution regarding the treatment of religious minorities in Iran, because I hear that those 13 are still awaiting trial and the trial will take place soon. I do not know why we took that off the calendar. It is very important now because this week we have had to see the phenomenon of the joyous approval of an agreement with China, World Trade Organization agreement; China is going to be admitted to the World Trade Organization, and all of the persecutions of the Chinese Communist government and all of the things that they have done, suddenly they have been pushed in the background.

Mr. Speaker, I would hate to see the day arrive when we are going to allow Iran to join the World Trade Organization and we are going to negotiate a trade agreement with Iran and not deal with all of these problems.

Today there is an article in The New York Times about the wartime accounts found in Swiss banks. Instead of them being a small amount that Swiss banks agreed to, they said they only had 755 accounts of Jews who were killed in the Holocaust; yet it turns out that they have 45,000, 45,000 accounts that they now admit were accounts of the Jews in the Holocaust. Are we going to talk about prosecutors and Swiss bankers at the world court tribunal the way we are considering the prosecution of people who are responsible for the massacres in Kosovo and Bosnia?

Mr. Speaker, I just think that as we close out, there should be room on the calendar, and I hope that if there is going to be any more business unrelated to the budget, but certainly we will bring back that resolution as we close out and let the world know that the ethnic cleansing, we do not have to send bombers and we did not send bombers a long time ago to bomb Iran and we have not advocated that activity and I certainly do not propose that we do that, but our moral authority should be brought to bear another kind of ethnic cleansing that Jews have been doing in all of these Arab countries, especially in Iran, and now the continuation of it in such a bold way certainly ought to be brought to the attention of the American people and the Congress ought to weigh in and give its own moral opinion.

Mr. Speaker, I want to continue the train of thought that I set forth before that we are closing out the first session of the 106th Congress with great disappointment, but I am optimistic that the second session will be very productive, because I think the stage for a second session which is more productive will be set by the presidential debates and the presidential contests, as well as the contest for a new Congress. I do not want to imply that I do not think that the contest to elect a new Congress is less important than the presidential election.

We intend to have a Democratic majority, and that Democratic majority will be based on the fact that the people look at the lack of achievements of the first session of the 106th Congress and begin to demand a change and vote for a change.

It is certainly of great need in my district, New York City. It seems that the newspapers and the powerful people that control decision-making have suddenly discovered that the board of education in our city is on the verge of collapse, and that education, the educational deficiencies that we have talked about for many years are true.

All of this is being brought to a head by a class action suit that is now going forward in the Federal court at 60 Center Street in New York. The Federal court is hearing a case brought by a group called the Campaign for Fiscal Equity, and the case is being brought against the State of New York because the conditions in the city schools are partially that way because of the lack of fair State aid, or fair distribution of State aid.

New York City, with 38 percent of the children in the State, receives only 35 percent of the State aid money; and that is a great improvement over the way it was 5 years ago. Over the years, the gap has closed. There was one point where we received far less in State aid where communities outside of New York City and upstate received a far greater percentage of State aid per pupil. The court case, the plaintiffs are charging, and rightly so, that we do not get enough money to live up to the requirement of the State constitution that all children be educated adequately. We need more money in order to provide adequate education.

They have gone further and said that the schools that are suffering either in New York City or in the big city of Buffalo, big cities like Buffalo and Syracuse are in some of the suburban schools. Those schools are all schools that have minority youngsters, either African American youngsters or Hispanic youngsters, so that there is a racial component. The suit is charging two things, not only that the State has failed to provide the funds necessary for an adequate education for all children, but the State is also discriminating, because the pattern is that the places that are getting less money per pupil, per child, happen to be places where we have concentrations of minorities.

Now, that court suit has generated more attention from the press to the great problems that exist in New York City schools. As a result, one day last week we had the New York Post carry articles about the fact that the cafeterias of certain schools in the poorest areas had rats and roaches, signs of rats and roaches in the cafeteria. The same day there was a big article in the Daily News about the fact that in those same schools where the minorities are concentrated and of course youngsters are concentrated, up to half of the teachers are not certified to teach. Where we need the best teachers we have the worst teachers because of the problem of the lack of certification.

The problem of certification of teachers goes on as being discussed, and I welcome that discussion in the newspapers. We cannot really take full advantage of the President's fight that I think now has been won, the battle has been won, to provide more teachers to the classroom who are qualified if we do not have certified teachers. So it is imperative that the unfinished business of this Congress be followed through next year by providing more funds and more programs to generate more teachers. We have to have a greater pool of teachers because we are in a situation now where because there is a great shortage of teachers, the best teachers, the teachers who passed the tests and are certified, they leave New York City and go to the suburbs, and we are left with those who are unqualified and are not certified in large numbers.

This is just one of the many problems. The New York Times has an editorial which talks about the bidding for teachers.

Now, am I laying this problem solely on the doorstep of the Federal Government? No, I am not. But bidding for qualified teachers requires more funding. Most of that funding would not come from the Federal Government. So I would like to add that it is very important for the Federal Government to

continue its role as a stimulus. The Federal Government's role in education is a very small one proportionally. We only provide 6 or 7 percent of the total education funds in this Nation, and that includes higher education. So the other 93 percent of the funding for education comes from the States and from the local governments.

We must set standards for the States and local governments in certain critical areas and force them to spend more of their money on education. In my own City of New York, last year they had a surplus of $2 billion, more revenue was collected, $2 billion more than was spent. But the mayor of the city and the city council has to bear part of the blame for this also, chose not to spend a single dime on education. We cannot blame the Federal Government for that.

These problems that are being unearthed with respect to lack of certified teachers, poor conditions in the cafeterias, et cetera, they must be approached from the city level as well, and the State level; the State Government had a $2 billion surplus also.

These are very prosperous times, and we had surpluses. The New York State legislature, both the legislature and the assembly, passed a bill to spend $500 million to repair schools, for schools that need repair most. There are schools that still have coal-burning furnaces; there are schools that have asbestos problems; schools that have lead in the pipes. They wanted to deal with some of those problems, but the Republican governor vetoed a bill to provide $500,000 for that.

So we cannot blame it totally on the Federal Government, but the example has to be set by the Federal Government. The role of the Federal Government in education, as small as it is, has been a very positive one because they have stimulated new standards at the State level, new kinds of competencies. We never had State education plans before the Federal Government got involved under Lyndon Johnson. We never had standards, discussions about standards in curriculum. There are a whole set of positive things that have happened in education as a result of Federal leadership. Federal leadership provided the impetus, and that is as important as any other thing that the Federal Government does.

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If we make them, expose them to their own constituencies, the States and cities will spend more money for education, but we can only do that if the Federal government takes a greater initiative.

I have always said that at the dawn of the 21st century we should see ourselves as creating a new cyber civilization. That cyber civilization demands that there be more brain power. Brains are going to drive the next century. Everybody agrees on that, and if that is the case, we should give our highest priority to the development. No individuals in America should be left in a situation where they do not have the fullest opportunity to develop their brain power.

To do this, we need to launch a highly visible effort to revamp the infrastructure of the school systems of America. H.R. 3071, a bill I have introduced which calls for spending $110 billion over a 10-year period, is the kind of adequate response that we need to the problem of decaying infrastructure.

Me and my colleagues who were here 2 hours ago speaking on the floor talked about the atrocities with respect to overcrowding in their schools across the country. We can only deal with that if we have a massive Federal intervention which, in addition to providing the funds needed to build some schools, would stimulate the States and cities to also participate.

I am optimistic about next year. For those people who called me and said, well, they are closing out the year and you have no money for construction, are you not sad, no. I never expected this year to end with new money for construction. Even H.R. 1660, offered by the gentleman from New York (Mr. RANGEL), which all members of the Democratic Caucus support and we have been pushing, even that token response was not allowed on the floor.

I am not surprised. Next year the Republican majority will have to respond. Next year the candidates for president will have to respond. The American people want and demand that our education systems be revamped. We have to start with a substantial action like school construction and repair, and new school security.

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

Ms. DELAURO. Mr. Speaker, I thank the gentleman from New York for yielding to me.

Mr. Speaker, I wanted to call attention. Earlier this afternoon there were speakers on the floor who challenged a press conference that was held this morning. I wanted to, and my colleague, the gentlewoman from New York (Mrs. MCCARTHY), wanted to try to set the record straight on this press conference.

In fact, there were several of the Democratic women who today unveiled a sad symbol of this Congress' inaction on the very important issue of gun safety, gun safety legislation. The Columbine clock was unveiled. It ticks off the days, the hours, the minutes, the seconds since the Columbine tragedy, which was at 1:30 p.m. on April 12, 211 days ago, 211 days and 3 hours.

It represents the inaction of this Congress on an issue of absolute importance to American families, to their families and to their children.

Since April 20, many of my colleagues, many of the Democratic women in this House of Representatives, have worked hard to address the issue of gun safety and gun violence in a very thorough and thoughtful way, but for the last 7 months the Republican leadership has consistently obstructed every single attempt to pass meaningful gun safety measures in this body.

This is done so despite overwhelming support among mothers, fathers, sisters, brothers, aunts, uncles, grandmothers across this great country of ours to pass sensible measures: child safety locks, closing the loophole on background checks at gun shows, banning the importation of the high capacity ammunition clips.

This is legislation that was passed in the Senate, a bipartisan piece of legislation, a compromise piece of legislation. We are asking that the Conference Committee on Juvenile Justice which takes up the issue of gun safety please meet, do something, respond to the will of the people in this country. In fact, it is a conference committee that has met one time, one time; no debate, no discussion, no clarity of thought on what direction we take on gun safety measures in this country.

No one here is grandstanding. No one here is saying, let us not have a piece of legislation because what we want to do is to keep this issue around. That is not why we were sent here. We were sent here to do the people's business in the people's House.

Every single day 13 children die from gunfire in this country. It is wrong. That is why we had the clock, as a way to say the days, the hours, the seconds, the minutes are being ticked off and our kids are dying. Guns are getting into the hands of criminals and children. It is wrong.

If we are not going to do anything about it in this final day, these final days of the 106th session, we commit to the American public that we will spend every single day, minute, hour, and second of the next year of this session working hard to pass gun safety legislation in this country to protect our families and protect our children.

Mr. OWENS. Mr. Speaker, I am optimistic about gun safety passing, and it is because of the gentlewomen here.

Mr. Speaker, I yield to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Speaker, hopefully we will bring this issue up next year and work for it and get it passed.

Mr. Speaker, I also want to address some of the things said earlier in this Chamber and try and set the record straight. Number one, there is an awful lot of us that do not want this to be a political issue.

I personally do not think it should be a political issue. To me, it is not a Republican or a Democratic issue, it is the issue of the American people. That is why we had the clock, the Columbine clock, to remind people, because there has unfortunately been that terrible incident that woke up the American people to the gun violence that we sit here and talk about.

I of all people certainly do know what it is to remember the violence in

this country. In a couple of weeks, it will be the 6th year anniversary of the Long Island Railroad Massacre, where my husband was killed and a number of my neighbors were killed, and my son was injured, and an awful lot of people were injured on that.

We do not want the American people to forget the pain that is left with so many victims, so we here in Congress are trying to stop future pain to our children and to American citizens.

It can be taken off the table as far as a political issue. Let us all meet together at a conference. That is all we have been asking for. We are hearing this and that. I am on the conferees, and we have not met.

I have to tell the Members, if the NRA amendment had passed in this House, it was more than just being imperfect, it was dangerous. If the NRA amendment had been law over the first 6 months of 1999, 17,000 people who were stopped by our current background check system would now be armed. In fact, if the 24-hour policy had been in effect, we know of cases where murderers, rapists, and kidnappers would be walking around with guns.

This has nothing to do with second amendment rights, this has to do with keeping guns out of the hands of criminals. That is what we are supposed to do. But fortunately, and I will say this, Republicans and Democrats did work together, and together we prevented the NRA amendment from becoming law.

I think that is important here, because when we speak to the people, the American people, and it does not matter whether they are Republicans or Democrats, they want something done. That is what this House is supposed to be doing.

That is why we had the Columbine clock, to remind the American people that we still have time to do something before we leave. I know there are many of us that are willing to work through Thanksgiving, through Christmas, to make sure that our citizens are safe.

We have all tried to work in a bipartisan manner. We certainly have had people on both sides of the aisle support my amendment, which would have closed the gun show loophole, made sure that criminals and especially children do not get their hands on guns. I think that is what we have to do.

We should have passed safety reform in this Congress, real gun safety reform that keeps the guns out of the hands of felons. That is what we did not do in this Congress, and I am sorry for that, because each day that we have not done something we continue to lose victims across this country. We continue to see too much pain. That is not what this country is about.

I thank the gentleman from New York (Mr. OWENS) and I thank my colleague, the gentlewoman from Connecticut (Ms. DELAURO), for letting us answer these questions.

Mr. OWENS. Mr. Speaker, I thank my colleagues for joining me.

RECESS

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

Accordingly (at 5 o'clock and 10 minutes p.m.), the House stood in recess subject to the call of the Chair.

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AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 11 o'clock and 2 minutes p.m.

TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999

Mr. ARMEY submitted the following conference report and statement on the bill (H.R. 1180) to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes:

CONFERENCE REPORT (H. REPT. 106–478)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1180), to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Ticket to Work and Work Incentives Improvement Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents is as follows:

SEC. 2. FINDINGS AND PURPOSES.

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

(1) It is the policy of the United States to provide assistance to individuals with disabilities to lead productive work lives.

(2) Health care is important to all Americans.

(3) Health care is particularly important to individuals with disabilities and special health care needs who often cannot afford the insurance available to them through the private market, are uninsurable by the plans available in the private sector, and are at great risk of incurring very high and economically devastating health care costs.

(4) Americans with significant disabilities often are unable to obtain health care insurance that provides coverage of the services and supports that enable them to live independently and enter or rejoin the workforce. Personal assistance services (such as attendant services, personal assistance with transportation to and from work, reader services, job coaches, and related assistance) remove many of the barriers between significant disability and work. Coverage for such services, as well as for prescription drugs, durable medical equipment, and basic health care are powerful and proven tools for individuals with significant disabilities to obtain and retain employment.

(5) For individuals with disabilities, the fear of losing health care and related services is one of the greatest barriers keeping the individuals from maximizing their employment, earning potential, and independence.

(6) Social Security Disability Insurance and Supplemental Security Income beneficiaries risk losing medicare or medicaid coverage that is linked to their cash benefits, a risk that is an equal, or greater, work disincentive than the loss of cash benefits associated with working.

(7) Individuals with disabilities have greater opportunities for employment than ever before, aided by important public policy initiatives such as the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), advancements in public understanding of disability, and innovations in assistive technology, medical treatment, and rehabilitation.

(8) Despite such historic opportunities and the desire of millions of disability recipients to work and support themselves, fewer than one-half of one percent of Social Security Disability Insurance and Supplemental Security Income beneficiaries leave the disability rolls and return to work.

(9) In addition to the fear of loss of health care coverage, beneficiaries cite financial disincentives to work and earn income and lack of adequate employment training and placement services as barriers to employment.

(10) Eliminating such barriers to work by creating financial incentives to work and by providing individuals with disabilities real choice in obtaining the services and technology they need to find, enter, and maintain employment can greatly improve their short and long-term financial independence and personal well-being.

(11) In addition to the enormous advantages such changes promise for individuals with disabilities, redesigning government programs to help individuals with disabilities return to work may result in significant savings and extend the life of the Social Security Disability Insurance Trust Fund.

(12) If only an additional one-half of one percent of the current Social Security Disability Insurance and Supplemental Security Income recipients were to cease receiving benefits as a result of employment, the savings to the Social Security Trust Funds and to the Treasury in cash assistance would total $3,500,000,000 over the worklife of such individuals, far exceeding the cost of providing incentives and services needed to assist them in entering work and achieving financial independence to the best of their abilities.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide health care and employment preparation and placement services to individuals with disabilities that will enable those individuals to reduce their dependency on cash benefit programs.

(2) To encourage States to adopt the option of allowing individuals with disabilities to purchase medicaid coverage that is necessary to enable such individuals to maintain employment.

(3) To provide individuals with disabilities the option of maintaining medicare coverage while working.

(4) To establish a return to work ticket program that will allow individuals with disabilities to seek the services necessary to obtain and retain employment and reduce their dependency on cash benefit programs.

TITLE I—TICKET TO WORK AND SELF-SUFFICIENCY AND RELATED PROVISIONS

Subtitle A—Ticket to Work and Self-Sufficiency

SEC. 101. ESTABLISHMENT OF THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM.

(a) IN GENERAL.—Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

''THE TICKET TO WORK AND SELF-SUFFICIENCY PROGRAM

''SEC. 1148. (a) IN GENERAL.—The Commissioner shall establish a Ticket to Work and Self-Sufficiency Program, under which a disabled beneficiary may use a ticket to work and self-sufficiency issued by the Commissioner in accordance with this section to obtain employment services, vocational rehabilitation services, or other support services from an employment network which is of the beneficiary's choice and which is willing to provide such services to such beneficiary.

''(b) TICKET SYSTEM.—

''(1) DISTRIBUTION OF TICKETS.—The Commissioner may issue a ticket to work and self-sufficiency to disabled beneficiaries for participation in the Program.

''(2) ASSIGNMENT OF TICKETS.—A disabled beneficiary holding a ticket to work and self-sufficiency may assign the ticket to any employment network of the beneficiary's choice which is serving under the Program and is willing to accept the assignment.

''(3) TICKET TERMS.—A ticket issued under paragraph (1) shall consist of a document which evidences the Commissioner's agreement to pay (as provided in paragraph (4)) an employment network, which is serving under the Program and to which such ticket is assigned by the beneficiary, for such employment services, vocational rehabilitation services, and other support services as the employment network may provide to the beneficiary.

''(4) PAYMENTS TO EMPLOYMENT NETWORKS.—The Commissioner shall pay an employment network under the Program in accordance with the outcome payment system under subsection (h)(2) or under the outcome-milestone payment system under subsection (h)(3) (whichever is elected pursuant to subsection (h)(1)). An employment network may not request or receive compensation for such services from the beneficiary.

''(c) STATE PARTICIPATION.—

''(1) IN GENERAL.—Each State agency administering or supervising the administration of the State plan approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.) may elect to participate in the Program as an employment network with respect to a disabled beneficiary. If the State agency does elect to participate in the Program, the State agency also shall elect to be paid under the outcome payment system or the outcome-milestone payment system in accordance with subsection (h)(1). With respect to a disabled beneficiary that the State agency does not elect to have participate in the Program, the State agency shall be paid for services provided to that beneficiary under the system for payment applicable under section 222(d) and subsections (d) and (e) of section 1615. The Commissioner shall provide for periodic opportunities for exercising such elections.

''(2) EFFECT OF PARTICIPATION BY STATE AGENCY.—

''(A) STATE AGENCIES PARTICIPATING.—In any case in which a State agency described in paragraph (1) elects under that paragraph to participate in the Program, the employment services, vocational rehabilitation services, and other support services which, upon assignment of tickets to work and self-sufficiency, are provided to disabled beneficiaries by the State agency acting as an employment network shall be governed by plans for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

''(B) STATE AGENCIES ADMINISTERING MATERNAL AND CHILD HEALTH SERVICES PROGRAMS.—Subparagraph (A) shall not apply with respect to any State agency administering a program under title V of this Act.

''(3) AGREEMENTS BETWEEN STATE AGENCIES AND EMPLOYMENT NETWORKS.—State agencies and employment networks shall enter into agreements regarding the conditions under which services will be provided when an individual is referred by an employment network to a State agency for services. The Commissioner shall establish by regulations the timeframe within which such agreements must be entered into and the mechanisms for dispute resolution between State agencies and employment networks with respect to such agreements.

''(d) RESPONSIBILITIES OF THE COMMISSIONER.—

''(1) SELECTION AND QUALIFICATIONS OF PROGRAM MANAGERS.—The Commissioner shall enter into agreements with 1 or more organizations in the private or public sector for service as a program manager to assist the Commissioner in administering the Program. Any such program manager shall be selected by means of a competitive bidding process, from among organizations in the private or public sector with available expertise and experience in the field of vocational rehabilitation or employment services.

''(2) TENURE, RENEWAL, AND EARLY TERMINATION.—Each agreement entered into under paragraph (1) shall provide for early termination upon failure to meet performance standards which shall be specified in the agreement and which shall be weighted to take into account any performance in prior terms. Such performance standards shall include—

''(A) measures for ease of access by beneficiaries to services; and

''(B) measures for determining the extent to which failures in obtaining services for beneficiaries fall within acceptable parameters, as determined by the Commissioner.

''(3) PRECLUSION FROM DIRECT PARTICIPATION IN DELIVERY OF SERVICES IN OWN SERVICE AREA.—Agreements under paragraph (1) shall preclude—

''(A) direct participation by a program manager in the delivery of employment services, vocational rehabilitation services, or other support services to beneficiaries in the service area covered by the program manager's agreement; and

''(B) the holding by a program manager of a financial interest in an employment network or service provider which provides services in a geographic area covered under the program manager's agreement.

''(4) SELECTION OF EMPLOYMENT NETWORKS.—

''(A) IN GENERAL.—The Commissioner shall select and enter into agreements with employment networks for service under the Program. Such employment networks shall be in addition to State agencies serving as employment networks pursuant to elections under subsection (c).

''(B) ALTERNATE PARTICIPANTS.—In any State where the Program is being implemented, the Commissioner shall enter into an agreement with any alternate participant that is operating under the authority of section 222(d)(2) in the State as of the date of the enactment of this section and chooses to serve as an employment network under the Program.

''(5) TERMINATION OF AGREEMENTS WITH EMPLOYMENT NETWORKS.—The Commissioner shall terminate agreements with employment networks for inadequate performance, as determined by the Commissioner.

''(6) QUALITY ASSURANCE.—The Commissioner shall provide for such periodic reviews as are necessary to provide for effective quality assurance in the provision of services by employment networks. The Commissioner shall solicit and consider the views of consumers and the program manager under which the employment networks serve and shall consult with providers of services to develop performance measurements. The Commissioner shall ensure that the results of the periodic reviews are made available to beneficiaries who are prospective service recipients as they select employment networks. The Commissioner shall ensure that the periodic surveys of beneficiaries receiving services under the Program are designed to measure customer service satisfaction.

''(7) DISPUTE RESOLUTION.—The Commissioner shall provide for a mechanism for resolving disputes between beneficiaries and employment networks, between program managers and employment networks, and between program managers and providers of services. The Commissioner shall afford a party to such a dispute a reasonable opportunity for a full and fair review of the matter in dispute.

''(e) PROGRAM MANAGERS.—

''(1) IN GENERAL.—A program manager shall conduct tasks appropriate to assist the Commissioner in carrying out the Commissioner's duties in administering the Program.

''(2) RECRUITMENT OF EMPLOYMENT NETWORKS.—A program manager shall recruit, and recommend for selection by the Commissioner, employment networks for service under the Program. The program manager shall carry out such recruitment and provide such recommendations, and shall monitor all employment networks serving in the Program in the geographic area covered under the program manager's agreement, to the extent necessary and appropriate to ensure that adequate choices of services are made available to beneficiaries. Employment networks may serve under the Program only pursuant to an agreement entered into with the Commissioner under the Program incorporating the applicable provisions of this section and regulations thereunder, and the program manager shall provide and maintain assurances to the Commissioner that payment by the Commissioner to employment networks pursuant to this section is warranted based on compliance by such employment networks with the terms of such agreement and this section. The program manager shall not impose numerical limits on the number of employment networks to be recommended pursuant to this paragraph.

''(3) FACILITATION OF ACCESS BY BENEFICIARIES TO EMPLOYMENT NETWORKS.—A program manager shall facilitate access by beneficiaries to employment networks. The program manager shall ensure that each beneficiary is allowed changes in employment networks without being deemed to have rejected services under the Program. When such a change occurs, the program manager shall reassign the ticket based on the choice of the beneficiary. Upon the request of the employment network, the program manager shall make a determination of the allocation of the outcome or milestone-outcome payments based on the services provided by each employment network. The program manager shall establish and maintain lists of employment networks available to beneficiaries and shall make such lists generally available to the public. The program manager shall ensure that all information provided to disabled beneficiaries pursuant to this paragraph is provided in accessible formats.

''(4) ENSURING AVAILABILITY OF ADEQUATE SERVICES.—The program manager shall ensure that employment services, vocational rehabilitation services, and other support services are provided to beneficiaries throughout the geographic area covered under the program manager's agreement, including rural areas.

''(5) REASONABLE ACCESS TO SERVICES.—The program manager shall take such measures as are necessary to ensure that sufficient employment networks are available and that each beneficiary receiving services under the Program has reasonable access to employment services, vocational rehabilitation services, and other support services. Services provided under the Program may include case management, work incentives planning, supported employment, career planning, career plan development, vocational assessment, job training, placement, follow-up services, and such other services as may be specified by the Commissioner under the Program. The program manager shall ensure that such services are available in each service area.

''(f) EMPLOYMENT NETWORKS.—

''(1) QUALIFICATIONS FOR EMPLOYMENT NETWORKS.—

''(A) IN GENERAL.—Each employment network serving under the Program shall consist of an agency or instrumentality of a State (or a political subdivision thereof) or a private entity, that assumes responsibility for the coordination and delivery of services under the Program to individuals assigning to the employment network tickets to work and self-sufficiency issued under subsection (b).

''(B) ONE-STOP DELIVERY SYSTEMS.—An employment network serving under the Program may consist of a one-stop delivery system established under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.).

''(C) COMPLIANCE WITH SELECTION CRITERIA.—No employment network may serve under the Program unless it meets and maintains compliance with both general selection criteria (such as professional and educational qualifications, where applicable) and specific selection criteria (such as substantial expertise and experience in providing relevant employment services and supports).

''(D) SINGLE OR ASSOCIATED PROVIDERS ALLOWED.—An employment network shall consist of either a single provider of such services or of an association of such providers organized so as to combine their resources into a single entity. An employment network may meet the requirements of subsection (e)(4) by providing services directly, or by entering into agreements with other individuals or entities providing appropriate employment services, vocational rehabilitation services, or other support services.

''(2) REQUIREMENTS RELATING TO PROVISION OF SERVICES.—Each employment network serving under the Program shall be required under the terms of its agreement with the Commissioner to—

''(A) serve prescribed service areas; and

''(B) take such measures as are necessary to ensure that employment services, vocational rehabilitation services, and other support services provided under the Program by, or under agreements entered into with, the employment network are provided under appropriate individual work plans that meet the requirements of subsection (g).

''(3) ANNUAL FINANCIAL REPORTING.—Each employment network shall meet financial reporting requirements as prescribed by the Commissioner.

''(4) PERIODIC OUTCOMES REPORTING.—Each employment network shall prepare periodic reports, on at least an annual basis, itemizing for the covered period specific outcomes achieved with respect to specific services provided by the employment network. Such reports shall conform to a national model prescribed under this section. Each employment network shall provide a copy of the latest report issued by the employment network pursuant to this paragraph to each beneficiary upon enrollment under the Program for services to be received through such employment network. Upon issuance of each report to each beneficiary, a copy of the report shall be maintained in the files of the employment network. The program manager shall ensure that copies of all such reports issued under

this paragraph are made available to the public under reasonable terms.

''(g) INDIVIDUAL WORK PLANS.—

''(1) REQUIREMENTS.—Each employment network shall—

''(A) take such measures as are necessary to ensure that employment services, vocational rehabilitation services, and other support services provided under the Program by, or under agreements entered into with, the employment network are provided under appropriate individual work plans that meet the requirements of subparagraph (C);

''(B) develop and implement each such individual work plan, in partnership with each beneficiary receiving such services, in a manner that affords such beneficiary the opportunity to exercise informed choice in selecting an employment goal and specific services needed to achieve that employment goal;

''(C) ensure that each individual work plan includes at least—

''(i) a statement of the vocational goal developed with the beneficiary, including, as appropriate, goals for earnings and job advancement;

''(ii) a statement of the services and supports that have been deemed necessary for the beneficiary to accomplish that goal;

''(iii) a statement of any terms and conditions related to the provision of such services and supports; and

''(iv) a statement of understanding regarding the beneficiary's rights under the Program (such as the right to retrieve the ticket to work and self-sufficiency if the beneficiary is dissatisfied with the services being provided by the employment network) and remedies available to the individual, including information on the availability of advocacy services and assistance in resolving disputes through the State grant program authorized under section 1150;

''(D) provide a beneficiary the opportunity to amend the individual work plan if a change in circumstances necessitates a change in the plan; and

''(E) make each beneficiary's individual work plan available to the beneficiary in, as appropriate, an accessible format chosen by the beneficiary.

''(2) EFFECTIVE UPON WRITTEN APPROVAL.—A beneficiary's individual work plan shall take effect upon written approval by the beneficiary or a representative of the beneficiary and a representative of the employment network that, in providing such written approval, acknowledges assignment of the beneficiary's ticket to work and self-sufficiency.

''(h) EMPLOYMENT NETWORK PAYMENT SYSTEMS.—

''(1) ELECTION OF PAYMENT SYSTEM BY EMPLOYMENT NETWORKS.—

''(A) IN GENERAL.—The Program shall provide for payment authorized by the Commissioner to employment networks under either an outcome payment system or an outcome-milestone payment system. Each employment network shall elect which payment system will be utilized by the employment network, and, for such period of time as such election remains in effect, the payment system so elected shall be utilized exclusively in connection with such employment network (except as provided in subparagraph (B)).

''(B) NO CHANGE IN METHOD OF PAYMENT FOR BENEFICIARIES WITH TICKETS ALREADY ASSIGNED TO THE EMPLOYMENT NETWORKS.—Any election of a payment system by an employment network that would result in a change in the method of payment to the employment network for services provided to a beneficiary who is receiving services from the employment network at the time of the election shall not be effective with respect to payment for services provided to that beneficiary and the method of payment previously selected shall continue to apply with respect to such services.

''(2) OUTCOME PAYMENT SYSTEM.—

''(A) IN GENERAL.—The outcome payment system shall consist of a payment structure governing employment networks electing such system under paragraph (1)(A) which meets the requirements of this paragraph.

''(B) PAYMENTS MADE DURING OUTCOME PAYMENT PERIOD.—The outcome payment system shall provide for a schedule of payments to an employment network, in connection with each individual who is a beneficiary, for each month, during the individual's outcome payment period, for which benefits (described in paragraphs (3) and (4) of subsection (k)) are not payable to such individual because of work or earnings.

''(C) COMPUTATION OF PAYMENTS TO EMPLOYMENT NETWORK.—The payment schedule of the outcome payment system shall be designed so that—

''(i) the payment for each month during the outcome payment period for which benefits (described in paragraphs (3) and (4) of subsection (k)) are not payable is equal to a fixed percentage of the payment calculation base for the calendar year in which such month occurs; and

''(ii) such fixed percentage is set at a percentage which does not exceed 40 percent.

''(3) OUTCOME-MILESTONE PAYMENT SYSTEM.—

''(A) IN GENERAL.—The outcome-milestone payment system shall consist of a payment structure governing employment networks electing such system under paragraph (1)(A) which meets the requirements of this paragraph.

''(B) EARLY PAYMENTS UPON ATTAINMENT OF MILESTONES IN ADVANCE OF OUTCOME PAYMENT PERIODS.—The outcome-milestone payment system shall provide for 1 or more milestones, with respect to beneficiaries receiving services from an employment network under the Program, that are directed toward the goal of permanent employment. Such milestones shall form a part of a payment structure that provides, in addition to payments made during outcome payment periods, payments made prior to outcome payment periods in amounts based on the attainment of such milestones.

''(C) LIMITATION ON TOTAL PAYMENTS TO EMPLOYMENT NETWORK.—The payment schedule of the outcome milestone payment system shall be designed so that the total of the payments to the employment network with respect to each beneficiary is less than, on a net present value basis (using an interest rate determined by the Commissioner that appropriately reflects the cost of funds faced by providers), the total amount to which payments to the employment network with respect to the beneficiary would be limited if the employment network were paid under the outcome payment system.

''(4) DEFINITIONS.—In this subsection:

''(A) PAYMENT CALCULATION BASE.—The term 'payment calculation base' means, for any calendar year—

''(i) in connection with a title II disability beneficiary, the average disability insurance benefit payable under section 223 for all beneficiaries for months during the preceding calendar year; and

''(ii) in connection with a title XVI disability beneficiary (who is not concurrently a title II disability beneficiary), the average payment of supplemental security income benefits based on disability payable under title XVI (excluding State supplementation) for months during the preceding calendar year to all beneficiaries who have attained 18 years of age but have not attained 65 years of age.

''(B) OUTCOME PAYMENT PERIOD.—The term 'outcome payment period' means, in connection with any individual who had assigned a ticket to work and self-sufficiency to an employment network under the Program, a period—

''(i) beginning with the first month, ending after the date on which such ticket was assigned to the employment network, for which benefits (described in paragraphs (3) and (4) of subsection (k)) are not payable to such individual by reason of engagement in substantial gainful activity or by reason of earnings from work activity; and

''(ii) ending with the 60th month (consecutive or otherwise), ending after such date, for which such benefits are not payable to such individual by reason of engagement in substantial gainful activity or by reason of earnings from work activity.

''(5) PERIODIC REVIEW AND ALTERATIONS OF PRESCRIBED SCHEDULES.—

''(A) PERCENTAGES AND PERIODS.—The Commissioner shall periodically review the percentage specified in paragraph (2)(C), the total payments permissible under paragraph (3)(C), and the period of time specified in paragraph (4)(B) to determine whether such percentages, such permissible payments, and such period provide an adequate incentive for employment networks to assist beneficiaries to enter the workforce, while providing for appropriate economies. The Commissioner may alter such percentage, such total permissible payments, or such period of time to the extent that the Commissioner determines, on the basis of the Commissioner's review under this paragraph, that such an alteration would better provide the incentive and economies described in the preceding sentence.

''(B) NUMBER AND AMOUNTS OF MILESTONE PAYMENTS.—The Commissioner shall periodically review the number and amounts of milestone payments established by the Commissioner pursuant to this section to determine whether they provide an adequate incentive for employment networks to assist beneficiaries to enter the workforce, taking into account information provided to the Commissioner by program managers, the Ticket to Work and Work Incentives Advisory Panel established by section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999, and other reliable sources. The Commissioner may from time to time alter the number and amounts of milestone payments initially established by the Commissioner pursuant to this section to the extent that the Commissioner determines that such an alteration would allow an adequate incentive for employment networks to assist beneficiaries to enter the workforce. Such alteration shall be based on information provided to the Commissioner by program managers, the Ticket to Work and Work Incentives Advisory Panel established by section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999, or other reliable sources.

''(C) REPORT ON THE ADEQUACY OF INCENTIVES.—The Commissioner shall submit to the Congress not later than 36 months after the date of the enactment of the Ticket to Work and Work Incentives Improvement Act of 1999 a report with recommendations for a method or methods to adjust payment rates under subparagraphs (A) and (B), that would ensure adequate incentives for the provision of services by employment networks of—

''(i) individuals with a need for ongoing support and services;

''(ii) individuals with a need for high-cost accommodations;

''(iii) individuals who earn a subminimum wage; and

''(iv) individuals who work and receive partial cash benefits.

The Commissioner shall consult with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 during the development and evaluation of the study. The Commissioner shall implement the necessary adjusted payment rates prior to full implementation of the Ticket to Work and Self-Sufficiency Program.

''(i) SUSPENSION OF DISABILITY REVIEWS.—During any period for which an individual is using, as defined by the Commissioner, a ticket to work and self-sufficiency issued under this section, the Commissioner (and any applicable State agency) may not initiate a continuing disability review or other review under section 221 of whether the individual is or is not under a disability or a review under title XVI similar to any such review under section 221.

''(j) AUTHORIZATIONS.—

''(1) PAYMENTS TO EMPLOYMENT NETWORKS.—

''(A) TITLE II DISABILITY BENEFICIARIES.—There are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to make payments to employment networks under this section. Money paid from the Trust Funds under this section with respect to title II disability beneficiaries who are entitled to benefits under section 223 or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such beneficiaries, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this section shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund.

''(B) TITLE XVI DISABILITY BENEFICIARIES.—Amounts authorized to be appropriated to the Social Security Administration under section 1601 (as in effect pursuant to the amendments made by section 301 of the Social Security Amendments of 1972) shall include amounts necessary to carry out the provisions of this section with respect to title XVI disability beneficiaries.

''(2) ADMINISTRATIVE EXPENSES.—The costs of administering this section (other than payments to employment networks) shall be paid from amounts made available for the administration of title II and amounts made available for the administration of title XVI, and shall be allocated among such amounts as appropriate.

''(k) DEFINITIONS.—In this section:

''(1) COMMISSIONER.—The term 'Commissioner' means the Commissioner of Social Security.

''(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' means a title II disability beneficiary or a title XVI disability beneficiary.

''(3) TITLE II DISABILITY BENEFICIARY.—The term 'title II disability beneficiary' means an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual's disability (as defined in section 223(d)). An individual is a title II disability beneficiary for each month for which such individual is entitled to such benefits.

''(4) TITLE XVI DISABILITY BENEFICIARY.—The term 'title XVI disability beneficiary' means an individual eligible for supplemental security income benefits under title XVI on the basis of blindness (within the meaning of section 1614(a)(2)) or disability (within the meaning of section 1614(a)(3)). An individual is a title XVI disability beneficiary for each month for which such individual is eligible for such benefits.

''(5) SUPPLEMENTAL SECURITY INCOME BENEFIT.—The term 'supplemental security income benefit under title XVI' means a cash benefit under section 1611 or 1619(a), and does not include a State supplementary payment, administered federally or otherwise.

''(l) REGULATIONS.—Not later than 1 year after the date of the enactment of the Ticket to Work and Work Incentives Improvement Act of 1999, the Commissioner shall prescribe such regulations as are necessary to carry out the provisions of this section.''.

(b) CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE II.—

(A) Section 221(i) of the Social Security Act (42 U.S.C. 421(i)) is amended by adding at the end the following new paragraph:

''(5) For suspension of reviews under this subsection in the case of an individual using a ticket to work and self-sufficiency, see section 1148(i).''.

(B) Section 222(a) of such Act (42 U.S.C. 422(a)) is repealed.

(C) Section 222(b) of such Act (42 U.S.C. 422(b)) is repealed.

(D) Section 225(b)(1) of such Act (42 U.S.C. 425(b)(1)) is amended by striking ''a program of vocational rehabilitation services'' and inserting ''a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1148 or another program of vocational rehabilitation services, employment services, or other support services''.

(2) AMENDMENTS TO TITLE XVI.—

(A) Section 1615(a) of such Act (42 U.S.C. 1382d(a)) is amended to read as follows:

''SEC. 1615. (a) In the case of any blind or disabled individual who—

''(1) has not attained age 16; and

''(2) with respect to whom benefits are paid under this title,

the Commissioner of Social Security shall make provision for referral of such individual to the appropriate State agency administering the State program under title V.''.

(B) Section 1615(c) of such Act (42 U.S.C. 1382d(c)) is repealed.

(C) Section 1631(a)(6)(A) of such Act (42 U.S.C. 1383(a)(6)(A)) is amended by striking ''a program of vocational rehabilitation services'' and inserting ''a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1148 or another program of vocational rehabilitation services, employment services, or other support services''.

(D) Section 1633(c) of such Act (42 U.S.C. 1383b(c)) is amended—

(i) by inserting ''(1)'' after ''(c)''; and

(ii) by adding at the end the following new paragraph:

''(2) For suspension of continuing disability reviews and other reviews under this title similar to reviews under section 221 in the case of an individual using a ticket to work and self-sufficiency, see section 1148(i).''.

(c) EFFECTIVE DATE.—Subject to subsection (d), the amendments made by subsections (a) and (b) shall take effect with the first month following 1 year after the date of the enactment of this Act.

(d) GRADUATED IMPLEMENTATION OF PROGRAM.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commissioner of Social Security shall commence implementation of the amendments made by this section (other than paragraphs (1)(C) and (2)(B) of subsection (b)) in graduated phases at phase-in sites selected by the Commissioner. Such phase-in sites shall be selected so as to ensure, prior to full implementation of the Ticket to Work and Self-Sufficiency Program, the development and refinement of referral processes, payment systems, computer linkages, management information systems, and administrative processes necessary to provide for full implementation of such amendments. Subsection (c) shall apply with respect to paragraphs (1)(C) and (2)(B) of subsection (b) without regard to this subsection.

(2) REQUIREMENTS.—Implementation of the Program at each phase-in site shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration, so as to ensure that the most efficacious methods are determined and in place for full implementation of the Program on a timely basis.

(3) FULL IMPLEMENTATION.—The Commissioner shall ensure that ability to provide tickets and services to individuals under the Program exists in every State as soon as practicable on or after the effective date specified in subsection (c) but not later than 3 years after such date.

(4) ONGOING EVALUATION OF PROGRAM.—

(A) IN GENERAL.—The Commissioner shall provide for independent evaluations to assess the effectiveness of the activities carried out under this section and the amendments made thereby. Such evaluations shall address the cost-effectiveness of such activities, as well as the effects of this section and the amendments made thereby on work outcomes for beneficiaries receiving tickets to work and self-sufficiency under the Program.

(B) CONSULTATION.—Evaluations shall be conducted under this paragraph after receiving relevant advice from experts in the fields of disability, vocational rehabilitation, and program evaluation and individuals using tickets to work and self-sufficiency under the Program and in consultation with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of this Act, the Comptroller General of the United States, other agencies of the Federal Government, and private organizations with appropriate expertise.

(C) METHODOLOGY.—

(i) IMPLEMENTATION.—The Commissioner, in consultation with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of this Act, shall ensure that plans for evaluations and data collection methods under the Program are appropriately designed to obtain detailed employment information.

(ii) SPECIFIC MATTERS TO BE ADDRESSED.—Each such evaluation shall address (but is not limited to)—

(I) the annual cost (including net cost) of the Program and the annual cost (including net cost) that would have been incurred in the absence of the Program;

(II) the determinants of return to work, including the characteristics of beneficiaries in receipt of tickets under the Program;

(III) the types of employment services, vocational rehabilitation services, and other support services furnished to beneficiaries in receipt of tickets under the Program who return to work and to those who do not return to work;

(IV) the duration of employment services, vocational rehabilitation services, and other support services furnished to beneficiaries in receipt of tickets under the Program who return to work and the duration of such services furnished to those who do not return to work and the cost to employment networks of furnishing such services;

(V) the employment outcomes, including wages, occupations, benefits, and hours worked, of beneficiaries who return to work after receiving tickets under the Program and those who return to work without receiving such tickets;

(VI) the characteristics of individuals in possession of tickets under the Program who are not accepted for services and, to the extent reasonably determinable, the reasons for which such beneficiaries were not accepted for services;

(VII) the characteristics of providers whose services are provided within an employment network under the Program;

(VIII) the extent (if any) to which employment networks display a greater willingness to provide services to beneficiaries with a range of disabilities;

(IX) the characteristics (including employment outcomes) of those beneficiaries who receive services under the outcome payment system and of those beneficiaries who receive services under the outcome-milestone payment system;

(X) measures of satisfaction among beneficiaries in receipt of tickets under the Program; and

(XI) reasons for (including comments solicited from beneficiaries regarding) their choice not to use their tickets or their inability to return to work despite the use of their tickets.

(D) PERIODIC EVALUATION REPORTS.—Following the close of the third and fifth fiscal years ending after the effective date under subsection (c), and prior to the close of the seventh fiscal year ending after such date, the Commissioner shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the Commissioner's evaluation of the progress of activities conducted under the provisions of this section and the amendments made thereby. Each such report shall set forth the Commissioner's evaluation of the extent to which the Program has been successful and the Commissioner's conclusions on whether or how

the Program should be modified. Each such report shall include such data, findings, materials, and recommendations as the Commissioner may consider appropriate.

(5) EXTENT OF STATE'S RIGHT OF FIRST REFUSAL IN ADVANCE OF FULL IMPLEMENTATION OF AMENDMENTS IN SUCH STATE.—

(A) IN GENERAL.—In the case of any State in which the amendments made by subsection (a) have not been fully implemented pursuant to this subsection, the Commissioner shall determine by regulation the extent to which—

(i) the requirement under section 222(a) of the Social Security Act (42 U.S.C. 422(a)) for prompt referrals to a State agency; and

(ii) the authority of the Commissioner under section 222(d)(2) of such Act (42 U.S.C. 422(d)(2)) to provide vocational rehabilitation services in such State by agreement or contract with other public or private agencies, organizations, institutions, or individuals,

shall apply in such State.

(B) EXISTING AGREEMENTS.—Nothing in subparagraph (A) or the amendments made by subsection (a) shall be construed to limit, impede, or otherwise affect any agreement entered into pursuant to section 222(d)(2) of the Social Security Act (42 U.S.C. 422(d)(2)) before the date of the enactment of this Act with respect to services provided pursuant to such agreement to beneficiaries receiving services under such agreement as of such date, except with respect to services (if any) to be provided after 3 years after the effective date provided in subsection (c).

(e) SPECIFIC REGULATIONS REQUIRED.—

(1) IN GENERAL.—The Commissioner of Social Security shall prescribe such regulations as are necessary to implement the amendments made by this section.

(2) SPECIFIC MATTERS TO BE INCLUDED IN REGULATIONS.—The matters which shall be addressed in such regulations shall include—

(A) the form and manner in which tickets to work and self-sufficiency may be distributed to beneficiaries pursuant to section 1148(b)(1) of the Social Security Act;

(B) the format and wording of such tickets, which shall incorporate by reference any contractual terms governing service by employment networks under the Program;

(C) the form and manner in which State agencies may elect participation in the Ticket to Work and Self-Sufficiency Program pursuant to section 1148(c)(1) of such Act and provision for periodic opportunities for exercising such elections;

(D) the status of State agencies under section 1148(c)(1) of such Act at the time that State agencies exercise elections under that section;

(E) the terms of agreements to be entered into with program managers pursuant to section 1148(d) of such Act, including—

(i) the terms by which program managers are precluded from direct participation in the delivery of services pursuant to section 1148(d)(3) of such Act;

(ii) standards which must be met by quality assurance measures referred to in paragraph (6) of section 1148(d) of such Act and methods of recruitment of employment networks utilized pursuant to paragraph (2) of section 1148(e) of such Act; and

(iii) the format under which dispute resolution will operate under section 1148(d)(7) of such Act;

(F) the terms of agreements to be entered into with employment networks pursuant to section 1148(d)(4) of such Act, including—

(i) the manner in which service areas are specified pursuant to section 1148(f)(2)(A) of such Act;

(ii) the general selection criteria and the specific selection criteria which are applicable to employment networks under section 1148(f)(1)(C) of such Act in selecting service providers;

(iii) specific requirements relating to annual financial reporting by employment networks pursuant to section 1148(f)(3) of such Act; and

(iv) the national model to which periodic outcomes reporting by employment networks must conform under section 1148(f)(4) of such Act;

(G) standards which must be met by individual work plans pursuant to section 1148(g) of such Act;

(H) standards which must be met by payment systems required under section 1148(h) of such Act, including—

(i) the form and manner in which elections by employment networks of payment systems are to be exercised pursuant to section 1148(h)(1)(A) of such Act;

(ii) the terms which must be met by an outcome payment system under section 1148(h)(2) of such Act;

(iii) the terms which must be met by an outcome-milestone payment system under section 1148(h)(3) of such Act;

(iv) any revision of the percentage specified in paragraph (2)(C) of section 1148(h) of such Act or the period of time specified in paragraph (4)(B) of such section 1148(h) of such Act; and

(v) annual oversight procedures for such systems; and

(I) procedures for effective oversight of the Program by the Commissioner of Social Security, including periodic reviews and reporting requirements.

(f) THE TICKET TO WORK AND WORK INCENTIVES ADVISORY PANEL.—

(1) ESTABLISHMENT.—There is established within the Social Security Administration a panel to be known as the ''Ticket to Work and Work Incentives Advisory Panel'' (in this subsection referred to as the ''Panel'').

(2) DUTIES OF PANEL.—It shall be the duty of the Panel to—

(A) advise the President, the Congress, and the Commissioner of Social Security on issues related to work incentives programs, planning, and assistance for individuals with disabilities, including work incentive provisions under titles II, XI, XVI, XVIII, and XIX of the Social Security Act (42 U.S.C. 401 et seq., 1301 et seq., 1381 et seq., 1395 et seq., 1396 et seq.); and

(B) with respect to the Ticket to Work and Self-Sufficiency Program established under section 1148 of such Act—

(i) advise the Commissioner of Social Security with respect to establishing phase-in sites for such Program and fully implementing the Program thereafter, the refinement of access of disabled beneficiaries to employment networks, payment systems, and management information systems, and advise the Commissioner whether such measures are being taken to the extent necessary to ensure the success of the Program;

(ii) advise the Commissioner regarding the most effective designs for research and demonstration projects associated with the Program or conducted pursuant to section 302 of this Act;

(iii) advise the Commissioner on the development of performance measurements relating to quality assurance under section 1148(d)(6) of the Social Security Act; and

(iv) furnish progress reports on the Program to the Commissioner and each House of Congress.

(3) MEMBERSHIP.—

(A) NUMBER AND APPOINTMENT.—The Panel shall be composed of 12 members as follows:

(i) 4 members appointed by the President, not more than 2 of whom may be of the same political party;

(ii) 2 members appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the Committee on Ways and Means of the House of Representatives;

(iii) 2 members appointed by the minority leader of the House of Representatives, in consultation with the ranking member of the Committee on Ways and Means of the House of Representatives;

(iv) 2 members appointed by the majority leader of the Senate, in consultation with the Chairman of the Committee on Finance of the Senate; and

(v) 2 members appointed by the minority leader of the Senate, in consultation with the ranking member of the Committee on Finance of the Senate.

(B) REPRESENTATION.—

(i) IN GENERAL.—The members appointed under subparagraph (A) shall have experience or expert knowledge as a recipient, provider, employer, or employee in the fields of, or related to, employment services, vocational rehabilitation services, and other support services.

(ii) REQUIREMENT.—At least one-half of the members appointed under subparagraph (A) shall be individuals with disabilities, or representatives of individuals with disabilities, with consideration given to current or former title II disability beneficiaries or title XVI disability beneficiaries (as such terms are defined in section 1148(k) of the Social Security Act (as added by subsection (a)).

(C) TERMS.—

(i) IN GENERAL.—Each member shall be appointed for a term of 4 years (or, if less, for the remaining life of the Panel), except as provided in clauses (ii) and (iii). The initial members shall be appointed not later than 90 days after the date of the enactment of this Act.

(ii) TERMS OF INITIAL APPOINTEES.—Of the members first appointed under each clause of subparagraph (A), as designated by the appointing authority for each such clause—

(I) one-half of such members shall be appointed for a term of 2 years; and

(II) the remaining members shall be appointed for a term of 4 years.

(iii) VACANCIES.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office. A vacancy in the Panel shall be filled in the manner in which the original appointment was made.

(D) BASIC PAY.—Members shall each be paid at a rate, and in a manner, that is consistent with guidelines established under section 7 of the Federal Advisory Committee Act (5 U.S.C. App.).

(E) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(F) QUORUM.—8 members of the Panel shall constitute a quorum but a lesser number may hold hearings.

(G) CHAIRPERSON.—The Chairperson of the Panel shall be designated by the President. The term of office of the Chairperson shall be 4 years.

(H) MEETINGS.—The Panel shall meet at least quarterly and at other times at the call of the Chairperson or a majority of its members.

(4) DIRECTOR AND STAFF OF PANEL; EXPERTS AND CONSULTANTS.—

(A) DIRECTOR.—The Panel shall have a Director who shall be appointed by the Chairperson, and paid at a rate, and in a manner, that is consistent with guidelines established under section 7 of the Federal Advisory Committee Act (5 U.S.C. App.).

(B) STAFF.—Subject to rules prescribed by the Commissioner of Social Security, the Director may appoint and fix the pay of additional personnel as the Director considers appropriate.

(C) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Commissioner of Social Security, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(D) STAFF OF FEDERAL AGENCIES.—Upon request of the Panel, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Panel to assist it in carrying out its duties under this Act.

(5) POWERS OF PANEL.—

(A) HEARINGS AND SESSIONS.—The Panel may, for the purpose of carrying out its duties under

this subsection, hold such hearings, sit and act at such times and places, and take such testimony and evidence as the Panel considers appropriate.

(B) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Panel may, if authorized by the Panel, take any action which the Panel is authorized to take by this section.

(C) MAILS.—The Panel may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) REPORTS.—

(A) INTERIM REPORTS.—The Panel shall submit to the President and the Congress interim reports at least annually.

(B) FINAL REPORT.—The Panel shall transmit a final report to the President and the Congress not later than eight years after the date of the enactment of this Act. The final report shall contain a detailed statement of the findings and conclusions of the Panel, together with its recommendations for legislation and administrative actions which the Panel considers appropriate.

(7) TERMINATION.—The Panel shall terminate 30 days after the date of the submission of its final report under paragraph (6)(B).

(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and the general fund of the Treasury, as appropriate, such sums as are necessary to carry out this subsection.

Subtitle B—Elimination of Work Disincentives

SEC. 111. WORK ACTIVITY STANDARD AS A BASIS FOR REVIEW OF AN INDIVIDUAL'S DISABLED STATUS.

(a) IN GENERAL.—Section 221 of the Social Security Act (42 U.S.C. 421) is amended by adding at the end the following new subsection:

''(m)(1) In any case where an individual entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual's disability (as defined in section 223(d)) has received such benefits for at least 24 months—

''(A) no continuing disability review conducted by the Commissioner may be scheduled for the individual solely as a result of the individual's work activity;

''(B) no work activity engaged in by the individual may be used as evidence that the individual is no longer disabled; and

''(C) no cessation of work activity by the individual may give rise to a presumption that the individual is unable to engage in work.

''(2) An individual to which paragraph (1) applies shall continue to be subject to—

''(A) continuing disability reviews on a regularly scheduled basis that is not triggered by work; and

''(B) termination of benefits under this title in the event that the individual has earnings that exceed the level of earnings established by the Commissioner to represent substantial gainful activity.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2002.

SEC. 112. EXPEDITED REINSTATEMENT OF DISABILITY BENEFITS.

(a) OASDI BENEFITS.—Section 223 of the Social Security Act (42 U.S.C. 423) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection:

''Reinstatement of Entitlement

''(i)(1)(A) Entitlement to benefits described in subparagraph (B)(i)(I) shall be reinstated in any case where the Commissioner determines that an individual described in subparagraph (B) has filed a request for reinstatement meeting the requirements of paragraph (2)(A) during the period prescribed in subparagraph (C). Reinstatement of such entitlement shall be in accordance with the terms of this subsection.

''(B) An individual is described in this subparagraph if—

''(i) prior to the month in which the individual files a request for reinstatement—

''(I) the individual was entitled to benefits under this section or section 202 on the basis of disability pursuant to an application filed therefor; and

''(II) such entitlement terminated due to the performance of substantial gainful activity;

''(ii) the individual is under a disability and the physical or mental impairment that is the basis for the finding of disability is the same as (or related to) the physical or mental impairment that was the basis for the finding of disability that gave rise to the entitlement described in clause (i); and

''(iii) the individual's disability renders the individual unable to perform substantial gainful activity.

''(C)(i) Except as provided in clause (ii), the period prescribed in this subparagraph with respect to an individual is 60 consecutive months beginning with the month following the most recent month for which the individual was entitled to a benefit described in subparagraph (B)(i)(I) prior to the entitlement termination described in subparagraph (B)(i)(II).

''(ii) In the case of an individual who fails to file a reinstatement request within the period prescribed in clause (i), the Commissioner may extend the period if the Commissioner determines that the individual had good cause for the failure to so file.

''(2)(A)(i) A request for reinstatement shall be filed in such form, and containing such information, as the Commissioner may prescribe.

''(ii) A request for reinstatement shall include express declarations by the individual that the individual meets the requirements specified in clauses (ii) and (iii) of paragraph (1)(B).

''(B) A request for reinstatement filed in accordance with subparagraph (A) may constitute an application for benefits in the case of any individual who the Commissioner determines is not entitled to reinstated benefits under this subsection.

''(3) In determining whether an individual meets the requirements of paragraph (1)(B)(ii), the provisions of subsection (f) shall apply.

''(4)(A)(i) Subject to clause (ii), entitlement to benefits reinstated under this subsection shall commence with the benefit payable for the month in which a request for reinstatement is filed.

''(ii) An individual whose entitlement to a benefit for any month would have been reinstated under this subsection had the individual filed a request for reinstatement before the end of such month shall be entitled to such benefit for such month if such request for reinstatement is filed before the end of the twelfth month immediately succeeding such month.

''(B)(i) Subject to clauses (ii) and (iii), the amount of the benefit payable for any month pursuant to the reinstatement of entitlement under this subsection shall be determined in accordance with the provisions of this title.

''(ii) For purposes of computing the primary insurance amount of an individual whose entitlement to benefits under this section is reinstated under this subsection, the date of onset of the individual's disability shall be the date of onset used in determining the individual's most recent period of disability arising in connection with such benefits payable on the basis of an application.

''(iii) Benefits under this section or section 202 payable for any month pursuant to a request for reinstatement filed in accordance with paragraph (2) shall be reduced by the amount of any provisional benefit paid to such individual for such month under paragraph (7).

''(C) No benefit shall be payable pursuant to an entitlement reinstated under this subsection to an individual for any month in which the individual engages in substantial gainful activity.

''(D) The entitlement of any individual that is reinstated under this subsection shall end with the benefits payable for the month preceding whichever of the following months is the earliest:

''(i) The month in which the individual dies.

''(ii) The month in which the individual attains retirement age.

''(iii) The third month following the month in which the individual's disability ceases.

''(5) Whenever an individual's entitlement to benefits under this section is reinstated under this subsection, entitlement to benefits payable on the basis of such individual's wages and self-employment income may be reinstated with respect to any person previously entitled to such benefits on the basis of an application if the Commissioner determines that such person satisfies all the requirements for entitlement to such benefits except requirements related to the filing of an application. The provisions of paragraph (4) shall apply to the reinstated entitlement of any such person to the same extent that they apply to the reinstated entitlement of such individual.

''(6) An individual to whom benefits are payable under this section or section 202 pursuant to a reinstatement of entitlement under this subsection for 24 months (whether or not consecutive) shall, with respect to benefits so payable after such twenty-fourth month, be deemed for purposes of paragraph (1)(B)(i)(I) and the determination, if appropriate, of the termination month in accordance with subsection (a)(1) of this section, or subsection (d)(1), (e)(1), or (f)(1) of section 202, to be entitled to such benefits on the basis of an application filed therefor.

''(7)(A) An individual described in paragraph (1)(B) who files a request for reinstatement in accordance with the provisions of paragraph (2)(A) shall be entitled to provisional benefits payable in accordance with this paragraph, unless the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual's declaration under paragraph (2)(A)(ii) is false. Any such determination by the Commissioner shall be final and not subject to review under subsection (b) or (g) of section 205.

''(B) The amount of a provisional benefit for a month shall equal the amount of the last monthly benefit payable to the individual under this title on the basis of an application increased by an amount equal to the amount, if any, by which such last monthly benefit would have been increased as a result of the operation of section 215(i).

''(C)(i) Provisional benefits shall begin with the month in which a request for reinstatement is filed in accordance with paragraph (2)(A).

''(ii) Provisional benefits shall end with the earliest of—

''(I) the month in which the Commissioner makes a determination regarding the individual's entitlement to reinstated benefits;

''(II) the fifth month following the month described in clause (i);

''(III) the month in which the individual performs substantial gainful activity; or

''(IV) the month in which the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual's declaration made in accordance with paragraph (2)(A)(ii) is false.

''(D) In any case in which the Commissioner determines that an individual is not entitled to reinstated benefits, any provisional benefits paid to the individual under this paragraph shall not be subject to recovery as an overpayment unless the Commissioner determines that the individual knew or should have known that the individual did not meet the requirements of paragraph (1)(B).''.

(b) SSI BENEFITS.—

(1) IN GENERAL.—Section 1631 of the Social Security Act (42 U.S.C. 1383) is amended by adding at the end the following new subsection:

''Reinstatement of Eligibility on the Basis of Blindness or Disability

''(p)(1)(A) Eligibility for benefits under this title shall be reinstated in any case where the

Commissioner determines that an individual described in subparagraph (B) has filed a request for reinstatement meeting the requirements of paragraph (2)(A) during the period prescribed in subparagraph (C). Reinstatement of eligibility shall be in accordance with the terms of this subsection.

''(B) An individual is described in this subparagraph if—

''(i) prior to the month in which the individual files a request for reinstatement—

''(I) the individual was eligible for benefits under this title on the basis of blindness or disability pursuant to an application filed therefor; and

''(II) the individual thereafter was ineligible for such benefits due to earned income (or earned and unearned income) for a period of 12 or more consecutive months;

''(ii) the individual is blind or disabled and the physical or mental impairment that is the basis for the finding of blindness or disability is the same as (or related to) the physical or mental impairment that was the basis for the finding of blindness or disability that gave rise to the eligibility described in clause (i);

''(iii) the individual's blindness or disability renders the individual unable to perform substantial gainful activity; and

''(iv) the individual satisfies the nonmedical requirements for eligibility for benefits under this title.

''(C)(i) Except as provided in clause (ii), the period prescribed in this subparagraph with respect to an individual is 60 consecutive months beginning with the month following the most recent month for which the individual was eligible for a benefit under this title (including section 1619) prior to the period of ineligibility described in subparagraph (B)(i)(II).

''(ii) In the case of an individual who fails to file a reinstatement request within the period prescribed in clause (i), the Commissioner may extend the period if the Commissioner determines that the individual had good cause for the failure to so file.

''(2)(A)(i) A request for reinstatement shall be filed in such form, and containing such information, as the Commissioner may prescribe.

''(ii) A request for reinstatement shall include express declarations by the individual that the individual meets the requirements specified in clauses (ii) through (iv) of paragraph (1)(B).

''(B) A request for reinstatement filed in accordance with subparagraph (A) may constitute an application for benefits in the case of any individual who the Commissioner determines is not eligible for reinstated benefits under this subsection.

''(3) In determining whether an individual meets the requirements of paragraph (1)(B)(ii), the provisions of section 1614(a)(4) shall apply.

''(4)(A) Eligibility for benefits reinstated under this subsection shall commence with the benefit payable for the month following the month in which a request for reinstatement is filed.

''(B)(i) Subject to clause (ii), the amount of the benefit payable for any month pursuant to the reinstatement of eligibility under this subsection shall be determined in accordance with the provisions of this title.

''(ii) The benefit under this title payable for any month pursuant to a request for reinstatement filed in accordance with paragraph (2) shall be reduced by the amount of any provisional benefit paid to such individual for such month under paragraph (7).

''(C) Except as otherwise provided in this subsection, eligibility for benefits under this title reinstated pursuant to a request filed under paragraph (2) shall be subject to the same terms and conditions as eligibility established pursuant to an application filed therefor.

''(5) Whenever an individual's eligibility for benefits under this title is reinstated under this subsection, eligibility for such benefits shall be reinstated with respect to the individual's spouse if such spouse was previously an eligible spouse of the individual under this title and the Commissioner determines that such spouse satisfies all the requirements for eligibility for such benefits except requirements related to the filing of an application. The provisions of paragraph (4) shall apply to the reinstated eligibility of the spouse to the same extent that they apply to the reinstated eligibility of such individual.

''(6) An individual to whom benefits are payable under this title pursuant to a reinstatement of eligibility under this subsection for twenty-four months (whether or not consecutive) shall, with respect to benefits so payable after such twenty-fourth month, be deemed for purposes of paragraph (1)(B)(i)(I) to be eligible for such benefits on the basis of an application filed therefor.

''(7)(A) An individual described in paragraph (1)(B) who files a request for reinstatement in accordance with the provisions of paragraph (2)(A) shall be eligible for provisional benefits payable in accordance with this paragraph, unless the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual's declaration under paragraph (2)(A)(ii) is false. Any such determination by the Commissioner shall be final and not subject to review under paragraph (1) or (3) of subsection (c).

''(B)(i) Except as otherwise provided in clause (ii), the amount of a provisional benefit for a month shall equal the amount of the monthly benefit that would be payable to an eligible individual under this title with the same kind and amount of income.

''(ii) If the individual has a spouse who was previously an eligible spouse of the individual under this title and the Commissioner determines that such spouse satisfies all the requirements of section 1614(b) except requirements related to the filing of an application, the amount of a provisional benefit for a month shall equal the amount of the monthly benefit that would be payable to an eligible individual and eligible spouse under this title with the same kind and amount of income.

''(C)(i) Provisional benefits shall begin with the month following the month in which a request for reinstatement is filed in accordance with paragraph (2)(A).

''(ii) Provisional benefits shall end with the earliest of—

''(I) the month in which the Commissioner makes a determination regarding the individual's eligibility for reinstated benefits;

''(II) the fifth month following the month for which provisional benefits are first payable under clause (i); or

''(III) the month in which the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual's declaration made in accordance with paragraph (2)(A)(ii) is false.

''(D) In any case in which the Commissioner determines that an individual is not eligible for reinstated benefits, any provisional benefits paid to the individual under this paragraph shall not be subject to recovery as an overpayment unless the Commissioner determines that the individual knew or should have known that the individual did not meet the requirements of paragraph (1)(B).

''(8) For purposes of this subsection other than paragraph (7), the term 'benefits under this title' includes State supplementary payments made pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93–66.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 1631(j)(1) of such Act (42 U.S.C. 1383(j)(1)) is amended by striking the period and inserting '', or has filed a request for reinstatement of eligibility under subsection (p)(2) and been determined to be eligible for reinstatement.''.

(B) Section 1631(j)(2)(A)(i)(I) of such Act (42 U.S.C. 1383(j)(2)(A)(i)(I)) is amended by inserting ''(other than pursuant to a request for reinstatement under subsection (p))'' after ''eligible''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act.

(2) LIMITATION.—No benefit shall be payable under title II or XVI on the basis of a request for reinstatement filed under section 223(i) or 1631(p) of the Social Security Act (42 U.S.C. 423(i), 1383(p)) before the effective date described in paragraph (1).

Subtitle C—Work Incentives Planning, Assistance, and Outreach

SEC. 121. WORK INCENTIVES OUTREACH PROGRAM.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), as amended by section 101 of this Act, is amended by adding after section 1148 the following new section:

''WORK INCENTIVES OUTREACH PROGRAM

''SEC. 1149. (a) ESTABLISHMENT.—

''(1) IN GENERAL.—The Commissioner, in consultation with the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999, shall establish a community-based work incentives planning and assistance program for the purpose of disseminating accurate information to disabled beneficiaries on work incentives programs and issues related to such programs.

''(2) GRANTS, COOPERATIVE AGREEMENTS, CONTRACTS, AND OUTREACH.—Under the program established under this section, the Commissioner shall—

''(A) establish a competitive program of grants, cooperative agreements, or contracts to provide benefits planning and assistance, including information on the availability of protection and advocacy services, to disabled beneficiaries, including individuals participating in the Ticket to Work and Self-Sufficiency Program established under section 1148, the program established under section 1619, and other programs that are designed to encourage disabled beneficiaries to work;

''(B) conduct directly, or through grants, cooperative agreements, or contracts, ongoing outreach efforts to disabled beneficiaries (and to the families of such beneficiaries) who are potentially eligible to participate in Federal or State work incentive programs that are designed to assist disabled beneficiaries to work, including—

''(i) preparing and disseminating information explaining such programs; and

''(ii) working in cooperation with other Federal, State, and private agencies and nonprofit organizations that serve disabled beneficiaries, and with agencies and organizations that focus on vocational rehabilitation and work-related training and counseling;

''(C) establish a corps of trained, accessible, and responsive work incentives specialists within the Social Security Administration who will specialize in disability work incentives under titles II and XVI for the purpose of disseminating accurate information with respect to inquiries and issues relating to work incentives to—

''(i) disabled beneficiaries;

''(ii) benefit applicants under titles II and XVI; and

''(iii) individuals or entities awarded grants under subparagraphs (A) or (B); and

''(D) provide—

''(i) training for work incentives specialists and individuals providing planning assistance described in subparagraph (C); and

''(ii) technical assistance to organizations and entities that are designed to encourage disabled beneficiaries to return to work.

''(3) COORDINATION WITH OTHER PROGRAMS.—The responsibilities of the Commissioner established under this section shall be coordinated

with other public and private programs that provide information and assistance regarding rehabilitation services and independent living supports and benefits planning for disabled beneficiaries including the program under section 1619, the plans for achieving self-support program (PASS), and any other Federal or State work incentives programs that are designed to assist disabled beneficiaries, including educational agencies that provide information and assistance regarding rehabilitation, school-to-work programs, transition services (as defined in, and provided in accordance with, the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.)), a one-stop delivery system established under subtitle B of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2811 et seq.), and other services.

''(b) CONDITIONS.—

''(1) SELECTION OF ENTITIES.—

''(A) APPLICATION.—An entity shall submit an application for a grant, cooperative agreement, or contract to provide benefits planning and assistance to the Commissioner at such time, in such manner, and containing such information as the Commissioner may determine is necessary to meet the requirements of this section.

''(B) STATEWIDENESS.—The Commissioner shall ensure that the planning, assistance, and information described in paragraph (2) shall be available on a statewide basis.

''(C) ELIGIBILITY OF STATES AND PRIVATE ORGANIZATIONS.—

''(i) IN GENERAL.—The Commissioner may award a grant, cooperative agreement, or contract under this section to a State or a private agency or organization (other than Social Security Administration Field Offices and the State agency administering the State medicaid program under title XIX, including any agency or entity described in clause (ii), that the Commissioner determines is qualified to provide the planning, assistance, and information described in paragraph (2)).

''(ii) AGENCIES AND ENTITIES DESCRIBED.—The agencies and entities described in this clause are the following:

''(I) Any public or private agency or organization (including Centers for Independent Living established under title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796 et seq.), protection and advocacy organizations, client assistance programs established in accordance with section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732), and State Developmental Disabilities Councils established in accordance with section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024)) that the Commissioner determines satisfies the requirements of this section.

''(II) The State agency administering the State program funded under part A of title IV.

''(D) EXCLUSION FOR CONFLICT OF INTEREST.—The Commissioner may not award a grant, cooperative agreement, or contract under this section to any entity that the Commissioner determines would have a conflict of interest if the entity were to receive a grant, cooperative agreement, or contract under this section.

''(2) SERVICES PROVIDED.—A recipient of a grant, cooperative agreement, or contract to provide benefits planning and assistance shall select individuals who will act as planners and provide information, guidance, and planning to disabled beneficiaries on the—

''(A) availability and interrelation of any Federal or State work incentives programs designed to assist disabled beneficiaries that the individual may be eligible to participate in;

''(B) adequacy of any health benefits coverage that may be offered by an employer of the individual and the extent to which other health benefits coverage may be available to the individual; and

''(C) availability of protection and advocacy services for disabled beneficiaries and how to access such services.

''(3) AMOUNT OF GRANTS, COOPERATIVE AGREEMENTS, OR CONTRACTS.—

''(A) BASED ON POPULATION OF DISABLED BENEFICIARIES.—Subject to subparagraph (B), the Commissioner shall award a grant, cooperative agreement, or contract under this section to an entity based on the percentage of the population of the State where the entity is located who are disabled beneficiaries.

''(B) LIMITATIONS.—

''(i) PER GRANT.—No entity shall receive a grant, cooperative agreement, or contract under this section for a fiscal year that is less than $50,000 or more than $300,000.

''(ii) TOTAL AMOUNT FOR ALL GRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS.—The total amount of all grants, cooperative agreements, and contracts awarded under this section for a fiscal year may not exceed $23,000,000.

''(4) ALLOCATION OF COSTS.—The costs of carrying out this section shall be paid from amounts made available for the administration of title II and amounts made available for the administration of title XVI, and shall be allocated among those amounts as appropriate.

''(c) DEFINITIONS.—In this section:

''(1) COMMISSIONER.—The term 'Commissioner' means the Commissioner of Social Security.

''(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' has the meaning given that term in section 1148(k)(2).

''(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $23,000,000 for each of the fiscal years 2000 through 2004.''.

SEC. 122. STATE GRANTS FOR WORK INCENTIVES ASSISTANCE TO DISABLED BENEFICIARIES.

Part A of title XI of the Social Security Act (42 U.S.C. 1301 et seq.), as amended by section 121 of this Act, is amended by adding after section 1149 the following new section:

''STATE GRANTS FOR WORK INCENTIVES ASSISTANCE TO DISABLED BENEFICIARIES

''SEC. 1150. (a) IN GENERAL.—Subject to subsection (c), the Commissioner may make payments in each State to the protection and advocacy system established pursuant to part C of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) for the purpose of providing services to disabled beneficiaries.

''(b) SERVICES PROVIDED.—Services provided to disabled beneficiaries pursuant to a payment made under this section may include—

''(1) information and advice about obtaining vocational rehabilitation and employment services; and

''(2) advocacy or other services that a disabled beneficiary may need to secure or regain gainful employment.

''(c) APPLICATION.—In order to receive payments under this section, a protection and advocacy system shall submit an application to the Commissioner, at such time, in such form and manner, and accompanied by such information and assurances as the Commissioner may require.

''(d) AMOUNT OF PAYMENTS.—

''(1) IN GENERAL.—Subject to the amount appropriated for a fiscal year for making payments under this section, a protection and advocacy system shall not be paid an amount that is less than—

''(A) in the case of a protection and advocacy system located in a State (including the District of Columbia and Puerto Rico) other than Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, the greater of—

''(i) $100,000; or

''(ii) ⅓ of 1 percent of the amount available for payments under this section; and

''(B) in the case of a protection and advocacy system located in Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, $50,000.

''(2) INFLATION ADJUSTMENT.—For each fiscal year in which the total amount appropriated to carry out this section exceeds the total amount appropriated to carry out this section in the preceding fiscal year, the Commissioner shall increase each minimum payment under subparagraphs (A) and (B) of paragraph (1) by a percentage equal to the percentage increase in the total amount so appropriated to carry out this section.

''(e) ANNUAL REPORT.—Each protection and advocacy system that receives a payment under this section shall submit an annual report to the Commissioner and the Ticket to Work and Work Incentives Advisory Panel established under section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999 on the services provided to individuals by the system.

''(f) FUNDING.—

''(1) ALLOCATION OF PAYMENTS.—Payments under this section shall be made from amounts made available for the administration of title II and amounts made available for the administration of title XVI, and shall be allocated among those amounts as appropriate.

''(2) CARRYOVER.—Any amounts allotted for payment to a protection and advocacy system under this section for a fiscal year shall remain available for payment to or on behalf of the protection and advocacy system until the end of the succeeding fiscal year.

''(g) DEFINITIONS.—In this section:

''(1) COMMISSIONER.—The term 'Commissioner' means the Commissioner of Social Security.

''(2) DISABLED BENEFICIARY.—The term 'disabled beneficiary' has the meaning given that term in section 1148(k)(2).

''(3) PROTECTION AND ADVOCACY SYSTEM.—The term 'protection and advocacy system' means a protection and advocacy system established pursuant to part C of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.).

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $7,000,000 for each of the fiscal years 2000 through 2004.''.

TITLE II—EXPANDED AVAILABILITY OF HEALTH CARE SERVICES

SEC. 201. EXPANDING STATE OPTIONS UNDER THE MEDICAID PROGRAM FOR WORKERS WITH DISABILITIES.

(a) IN GENERAL.—

(1) STATE OPTION TO ELIMINATE INCOME, ASSETS, AND RESOURCE LIMITATIONS FOR WORKERS WITH DISABILITIES BUYING INTO MEDICAID.—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(A) in subclause (XIII), by striking ''or'' at the end;

(B) in subclause (XIV), by adding ''or'' at the end; and

(C) by adding at the end the following new subclause:

''(XV) who, but for earnings in excess of the limit established under section 1905(q)(2)(B), would be considered to be receiving supplemental security income, who is at least 16, but less than 65, years of age, and whose assets, resources, and earned or unearned income (or both) do not exceed such limitations (if any) as the State may establish;''.

(2) STATE OPTION TO PROVIDE OPPORTUNITY FOR EMPLOYED INDIVIDUALS WITH A MEDICALLY IMPROVED DISABILITY TO BUY INTO MEDICAID.—

(A) ELIGIBILITY.—Section 1902(a)(10) (A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)), as amended by paragraph (1), is amended—

(i) in subclause (XIV), by striking ''or'' at the end;

(ii) in subclause (XV), by adding ''or'' at the end; and

(iii) by adding at the end the following new subclause:

''(XVI) who are employed individuals with a medically improved disability described in section 1905(v)(1) and whose assets, resources, and earned or unearned income (or both) do not exceed such limitations (if any) as the State may

establish, but only if the State provides medical assistance to individuals described in subclause (XV);''.

(B) DEFINITION OF EMPLOYED INDIVIDUALS WITH A MEDICALLY IMPROVED DISABILITY.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

''(v)(1) The term 'employed individual with a medically improved disability' means an individual who—

''(A) is at least 16, but less than 65, years of age;

''(B) is employed (as defined in paragraph (2));

''(C) ceases to be eligible for medical assistance under section 1902(a)(10)(A)(ii)(XV) because the individual, by reason of medical improvement, is determined at the time of a regularly scheduled continuing disability review to no longer be eligible for benefits under section 223(d) or 1614(a)(3); and

''(D) continues to have a severe medically determinable impairment, as determined under regulations of the Secretary.

''(2) For purposes of paragraph (1), an individual is considered to be 'employed' if the individual—

''(A) is earning at least the applicable minimum wage requirement under section 6 of the Fair Labor Standards Act (29 U.S.C. 206) and working at least 40 hours per month; or

''(B) is engaged in a work effort that meets substantial and reasonable threshold criteria for hours of work, wages, or other measures, as defined by the State and approved by the Secretary.''.

(C) CONFORMING AMENDMENT.—Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1)—

(i) in clause (x), by striking ''or'' at the end;

(ii) in clause (xi), by adding ''or'' at the end; and

(iii) by inserting after clause (xi), the following new clause:

''(xii) employed individuals with a medically improved disability (as defined in subsection (v)),''.

(3) STATE AUTHORITY TO IMPOSE INCOME-RELATED PREMIUMS AND COST-SHARING.—Section 1916 of such Act (42 U.S.C. 1396o) is amended—

(A) in subsection (a), by striking ''The State plan'' and inserting ''Subject to subsection (g), the State plan''; and

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

''(g) With respect to individuals provided medical assistance only under subclause (XV) or (XVI) of section 1902(a)(10)(A)(ii)—

''(1) a State may (in a uniform manner for individuals described in either such subclause)—

''(A) require such individuals to pay premiums or other cost-sharing charges set on a sliding scale based on income that the State may determine; and

''(B) require payment of 100 percent of such premiums for such year in the case of such an individual who has income for a year that exceeds 250 percent of the income official poverty line (referred to in subsection (c)(1)) applicable to a family of the size involved, except that in the case of such an individual who has income for a year that does not exceed 450 percent of such poverty line, such requirement may only apply to the extent such premiums do not exceed 7.5 percent of such income; and

''(2) such State shall require payment of 100 percent of such premiums for a year by such an individual whose adjusted gross income (as defined in section 62 of the Internal Revenue Code of 1986) for such year exceeds $75,000, except that a State may choose to subsidize such premiums by using State funds which may not be federally matched under this title.

In the case of any calendar year beginning after 2000, the dollar amount specified in paragraph (2) shall be increased in accordance with the provisions of section 215(i)(2)(A)(ii).''.

(4) PROHIBITION AGAINST SUPPLANTATION OF STATE FUNDS AND STATE FAILURE TO MAINTAIN EFFORT.—Section 1903(i) of such Act (42 U.S.C. 1396b(i)) is amended—

(A) by striking the period at the end of paragraph (19) and inserting ''; or''; and

(B) by inserting after such paragraph the following new paragraph:

''(20) with respect to amounts expended for medical assistance provided to an individual described in subclause (XV) or (XVI) of section 1902(a)(10)(A)(ii) for a fiscal year unless the State demonstrates to the satisfaction of the Secretary that the level of State funds expended for such fiscal year for programs to enable working individuals with disabilities to work (other than for such medical assistance) is not less than the level expended for such programs during the most recent State fiscal year ending before the date of the enactment of this paragraph.''.

(b) CONFORMING AMENDMENTS.—Section 1903(f)(4) of the Social Security Act (42 U.S.C. 1396b(f)(4) is amended in the matter preceding subparagraph (A) by inserting ''1902(a)(10)(A)(ii)(XV), 1902(a)(10)(A)(ii)(XVI),'' before ''1905(p)(1)''.

(c) GAO REPORT.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress regarding the amendments made by this section that examines—

(1) the extent to which higher health care costs for individuals with disabilities at higher income levels deter employment or progress in employment;

(2) whether such individuals have health insurance coverage or could benefit from the State option established under such amendments to provide a medicaid buy-in; and

(3) how the States are exercising such option, including—

(A) how such States are exercising the flexibility afforded them with regard to income disregards;

(B) what income and premium levels have been set;

(C) the degree to which States are subsidizing premiums above the dollar amount specified in section 1916(g)(2) of the Social Security Act (42 U.S.C. 1396o(g)(2)); and

(D) the extent to which there exists any crowd-out effect.

(d) EFFECTIVE DATE.—The amendments made by this section apply to medical assistance for items and services furnished on or after October 1, 2000.

SEC. 202. EXTENDING MEDICARE COVERAGE FOR OASDI DISABILITY BENEFIT RECIPIENTS.

(a) IN GENERAL.—The next to last sentence of section 226(b) of the Social Security Act (42 U.S.C. 426) is amended by striking ''24'' and inserting ''78''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective on and after October 1, 2000.

(c) GAO REPORT.—Not later than 5 years after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress that—

(1) examines the effectiveness and cost of the amendment made by subsection (a);

(2) examines the necessity and effectiveness of providing continuation of medicare coverage under section 226(b) of the Social Security Act (42 U.S.C. 426(b)) to individuals whose annual income exceeds the contribution and benefit base (as determined under section 230 of such Act (42 U.S.C. 430));

(3) examines the viability of providing the continuation of medicare coverage under such section 226(b) based on a sliding scale premium for individuals whose annual income exceeds such contribution and benefit base;

(4) examines the viability of providing the continuation of medicare coverage under such section 226(b) based on a premium buy-in by the beneficiary's employer in lieu of coverage under private health insurance;

(5) examines the interrelation between the use of the continuation of medicare coverage under such section 226(b) and the use of private health insurance coverage by individuals during the extended period; and

(6) recommends such legislative or administrative changes relating to the continuation of medicare coverage for recipients of social security disability benefits as the Comptroller General determines are appropriate.

SEC. 203. GRANTS TO DEVELOP AND ESTABLISH STATE INFRASTRUCTURES TO SUPPORT WORKING INDIVIDUALS WITH DISABILITIES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the ''Secretary'') shall award grants described in subsection (b) to States to support the design, establishment, and operation of State infrastructures that provide items and services to support working individuals with disabilities.

(2) APPLICATION.—In order to be eligible for an award of a grant under this section, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall require.

(3) DEFINITION OF STATE.—In this section, the term ''State'' means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(b) GRANTS FOR INFRASTRUCTURE AND OUTREACH.—

(1) IN GENERAL.—Out of the funds appropriated under subsection (e), the Secretary shall award grants to States to—

(A) support the establishment, implementation, and operation of the State infrastructures described in subsection (a); and

(B) conduct outreach campaigns regarding the existence of such infrastructures.

(2) ELIGIBILITY FOR GRANTS.—

(A) IN GENERAL.—No State may receive a grant under this subsection unless the State demonstrates to the satisfaction of the Secretary that the State makes personal assistance services available under the State plan under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to the extent necessary to enable individuals with disabilities to remain employed, including individuals described in section 1902(a)(10)(A)(ii)(XIII) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)) if the State has elected to provide medical assistance under such plan to such individuals.

(B) DEFINITIONS.—In this section:

(i) EMPLOYED.—The term ''employed'' means—

(I) earning at least the applicable minimum wage requirement under section 6 of the Fair Labor Standards Act (29 U.S.C. 206) and working at least 40 hours per month; or

(II) being engaged in a work effort that meets substantial and reasonable threshold criteria for hours of work, wages, or other measures, as defined and approved by the Secretary.

(ii) PERSONAL ASSISTANCE SERVICES.—The term ''personal assistance services'' means a range of services, provided by 1 or more persons, designed to assist an individual with a disability to perform daily activities on and off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

(3) DETERMINATION OF AWARDS.—

(A) IN GENERAL.—Subject to subparagraph (B), the Secretary shall develop a methodology for awarding grants to States under this section for a fiscal year in a manner that—

(i) rewards States for their efforts in encouraging individuals described in paragraph (2)(A) to be employed; and

(ii) does not provide a State that has not elected to provide medical assistance under title XIX of the Social Security Act to individuals described in section 1902(a)(10)(A)(ii)(XIII) of that Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)) with proportionally more funds for a fiscal year than a State that has exercised such election.

(B) AWARD LIMITS.—

(i) MINIMUM AWARDS.—

(I) IN GENERAL.—Subject to subclause (II), no State with an approved application under this section shall receive a grant for a fiscal year that is less than $500,000.

(II) PRO RATA REDUCTIONS.—If the funds appropriated under subsection (e) for a fiscal year are not sufficient to pay each State with an application approved under this section the minimum amount described in subclause (I), the Secretary shall pay each such State an amount equal to the pro rata share of the amount made available.

(ii) MAXIMUM AWARDS.—

(I) STATES THAT ELECTED OPTIONAL MEDICAID ELIGIBILITY.—No State that has an application that has been approved under this section and that has elected to provide medical assistance under title XIX of the Social Security Act to individuals described in section 1902(a)(10)(A)(ii)(XIII) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)) shall receive a grant for a fiscal year that exceeds 10 percent of the total expenditures by the State (including the reimbursed Federal share of such expenditures) for medical assistance provided under such title for such individuals, as estimated by the State and approved by the Secretary.

(II) OTHER STATES.—The Secretary shall determine, consistent with the limit described in subclause (I), a maximum award limit for a grant for a fiscal year for a State that has an application that has been approved under this section but that has not elected to provide medical assistance under title XIX of the Social Security Act to individuals described in section 1902(a)(10)(A)(ii)(XIII) of that Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)).

(c) AVAILABILITY OF FUNDS.—

(1) FUNDS AWARDED TO STATES.—Funds awarded to a State under a grant made under this section for a fiscal year shall remain available until expended.

(2) FUNDS NOT AWARDED TO STATES.—Funds not awarded to States in the fiscal year for which they are appropriated shall remain available in succeeding fiscal years for awarding by the Secretary.

(d) ANNUAL REPORT.—A State that is awarded a grant under this section shall submit an annual report to the Secretary on the use of funds provided under the grant. Each report shall include the percentage increase in the number of title II disability beneficiaries, as defined in section 1148(k)(3) of the Social Security Act (as added by section 101(a) of this Act) in the State, and title XVI disability beneficiaries, as defined in section 1148(k)(4) of the Social Security Act (as so added) in the State who return to work.

(e) APPROPRIATION.—

(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to make grants under this section—

(A) for fiscal year 2001, $20,000,000;

(B) for fiscal year 2002, $25,000,000;

(C) for fiscal year 2003, $30,000,000;

(D) for fiscal year 2004, $35,000,000;

(E) for fiscal year 2005, $40,000,000; and

(F) for each of fiscal years 2006 through 2011, the amount appropriated for the preceding fiscal year increased by the percentage increase (if any) in the Consumer Price Index for All Urban Consumers (United States city average) for the preceding fiscal year.

(2) BUDGET AUTHORITY.—This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of the amounts appropriated under paragraph (1).

(f) RECOMMENDATION.—Not later than October 1, 2010, the Secretary, in consultation with the Ticket to Work and Work Incentives Advisory Panel established by section 101(f) of this Act, shall submit a recommendation to the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate regarding whether the grant program established under this section should be continued after fiscal year 2011.

SEC. 204. DEMONSTRATION OF COVERAGE UNDER THE MEDICAID PROGRAM OF WORKERS WITH POTENTIALLY SEVERE DISABILITIES.

(a) STATE APPLICATION.—A State may apply to the Secretary of Health and Human Services (in this section referred to as the ''Secretary'') for approval of a demonstration project (in this section referred to as a ''demonstration project'') under which up to a specified maximum number of individuals who are workers with a potentially severe disability (as defined in subsection (b)(1)) are provided medical assistance equal to—

(1) that provided under section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) to individuals described in section 1902(a)(10)(A)(ii)(XIII) of that Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIII)); or

(2) in the case of a State that has not elected to provide medical assistance under that section to such individuals, such medical assistance as the Secretary determines is an appropriate equivalent to the medical assistance described in paragraph (1).

(b) WORKER WITH A POTENTIALLY SEVERE DISABILITY DEFINED.—For purposes of this section—

(1) IN GENERAL.—The term ''worker with a potentially severe disability'' means, with respect to a demonstration project, an individual who—

(A) is at least 16, but less than 65, years of age;

(B) has a specific physical or mental impairment that, as defined by the State under the demonstration project, is reasonably expected, but for the receipt of items and services described in section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)), to become blind or disabled (as defined under section 1614(a) of the Social Security Act (42 U.S.C. 1382c(a))); and

(C) is employed (as defined in paragraph (2)).

(2) DEFINITION OF EMPLOYED.—An individual is considered to be ''employed'' if the individual—

(A) is earning at least the applicable minimum wage requirement under section 6 of the Fair Labor Standards Act (29 U.S.C. 206) and working at least 40 hours per month; or

(B) is engaged in a work effort that meets substantial and reasonable threshold criteria for hours of work, wages, or other measures, as defined under the demonstration project and approved by the Secretary.

(c) APPROVAL OF DEMONSTRATION PROJECTS.—

(1) IN GENERAL.—Subject to paragraph (3), the Secretary shall approve applications under subsection (a) that meet the requirements of paragraph (2) and such additional terms and conditions as the Secretary may require. The Secretary may waive the requirement of section 1902(a)(1) of the Social Security Act (42 U.S.C. 1396a(a)(1)) to allow for sub-State demonstrations.

(2) TERMS AND CONDITIONS OF DEMONSTRATION PROJECTS.—The Secretary may not approve a demonstration project under this section unless the State provides assurances satisfactory to the Secretary that the following conditions are or will be met:

(A) MAINTENANCE OF STATE EFFORT.—Federal funds paid to a State pursuant to this section must be used to supplement, but not supplant, the level of State funds expended for workers with potentially severe disabilities under programs in effect for such individuals at the time the demonstration project is approved under this section.

(B) INDEPENDENT EVALUATION.—The State provides for an independent evaluation of the project.

(3) LIMITATIONS ON FEDERAL FUNDING.—

(A) APPROPRIATION.—

(i) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to carry out this section—

(I) $42,000,000 for each of fiscal years 2001 through 2004, and

(II) $41,000,000 for each of fiscal years 2005 and 2006.

(ii) BUDGET AUTHORITY.—Clause (i) constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of the amounts appropriated under clause (i).

(B) LIMITATION ON PAYMENTS.—In no case may—

(i) the aggregate amount of payments made by the Secretary to States under this section exceed $250,000,000;

(ii) the aggregate amount of payments made by the Secretary to States for administrative expenses relating to annual reports required under subsection (d) exceed $2,000,000 of such $250,000,000; or

(iii) payments be provided by the Secretary for a fiscal year after fiscal year 2009.

(C) FUNDS ALLOCATED TO STATES.—The Secretary shall allocate funds to States based on their applications and the availability of funds. Funds allocated to a State under a grant made under this section for a fiscal year shall remain available until expended.

(D) FUNDS NOT ALLOCATED TO STATES.—Funds not allocated to States in the fiscal year for which they are appropriated shall remain available in succeeding fiscal years for allocation by the Secretary using the allocation formula established under this section.

(E) PAYMENTS TO STATES.—The Secretary shall pay to each State with a demonstration project approved under this section, from its allocation under subparagraph (C), an amount for each quarter equal to the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act (42 U.S.C. 1395d(b)) of expenditures in the quarter for medical assistance provided to workers with a potentially severe disability.

(d) ANNUAL REPORT.—A State with a demonstration project approved under this section shall submit an annual report to the Secretary on the use of funds provided under the grant. Each report shall include enrollment and financial statistics on—

(1) the total population of workers with potentially severe disabilities served by the demonstration project; and

(2) each population of such workers with a specific physical or mental impairment described in subsection (b)(1)(B) served by such project.

(e) RECOMMENDATION.—Not later than October 1, 2004, the Secretary shall submit a recommendation to the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate regarding whether the demonstration project established under this section should be continued after fiscal year 2006.

(f) STATE DEFINED.—In this section, the term ''State'' has the meaning given such term for purposes of title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

SEC. 205. ELECTION BY DISABLED BENEFICIARIES TO SUSPEND MEDIGAP INSURANCE WHEN COVERED UNDER A GROUP HEALTH PLAN.

(a) IN GENERAL.—Section 1882(q) of the Social Security Act (42 U.S.C. 1395ss(q)) is amended—

(1) in paragraph (5)(C), by inserting ''or paragraph (6)'' after ''this paragraph''; and

(2) by adding at the end the following new paragraph:

''(6) Each medicare supplemental policy shall provide that benefits and premiums under the

policy shall be suspended at the request of the policyholder if the policyholder is entitled to benefits under section 226(b) and is covered under a group health plan (as defined in section 1862(b)(1)(A)(v)). If such suspension occurs and if the policyholder or certificate holder loses coverage under the group health plan, such policy shall be automatically reinstituted (effective as of the date of such loss of coverage) under terms described in subsection (n)(6)(A)(ii) as of the loss of such coverage if the policyholder provides notice of loss of such coverage within 90 days after the date of such loss.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to requests made after the date of the enactment of this Act.

TITLE III—DEMONSTRATION PROJECTS AND STUDIES

SEC. 301. EXTENSION OF DISABILITY INSURANCE PROGRAM DEMONSTRATION PROJECT AUTHORITY.

(a) EXTENSION OF AUTHORITY.—Title II of the Social Security Act (42 U.S.C. 401 et seq.) is amended by adding at the end the following new section:

''DEMONSTRATION PROJECT AUTHORITY

''SEC. 234. (a) AUTHORITY.—

''(1) IN GENERAL.—The Commissioner of Social Security (in this section referred to as the 'Commissioner') shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of—

''(A) various alternative methods of treating the work activity of individuals entitled to disability insurance benefits under section 223 or to monthly insurance benefits under section 202 based on such individual's disability (as defined in section 223(d)), including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of such individuals;

''(B) altering other limitations and conditions applicable to such individuals (including lengthening the trial work period (as defined in section 222(c)), altering the 24-month waiting period for hospital insurance benefits under section 226, altering the manner in which the program under this title is administered, earlier referral of such individuals for rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation); and

''(C) implementing sliding scale benefit offsets using variations in—

''(i) the amount of the offset as a proportion of earned income;

''(ii) the duration of the offset period; and

''(iii) the method of determining the amount of income earned by such individuals,

to the end that savings will accrue to the Trust Funds, or to otherwise promote the objectives or facilitate the administration of this title.

''(2) AUTHORITY FOR EXPANSION OF SCOPE.—The Commissioner may expand the scope of any such experiment or demonstration project to include any group of applicants for benefits under the program established under this title with impairments that reasonably may be presumed to be disabling for purposes of such demonstration project, and may limit any such demonstration project to any such group of applicants, subject to the terms of such demonstration project which shall define the extent of any such presumption.

''(b) REQUIREMENTS.—The experiments and demonstration projects developed under subsection (a) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program under this title without committing such program to the adoption of any particular system either locally or nationally.

''(c) AUTHORITY TO WAIVE COMPLIANCE WITH BENEFITS REQUIREMENTS.—In the case of any experiment or demonstration project conducted under subsection (a), the Commissioner may waive compliance with the benefit requirements of this title and the requirements of section 1148 as they relate to the program established under this title, and the Secretary may (upon the request of the Commissioner) waive compliance with the benefits requirements of title XVIII, insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least 90 days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a).

''(d) REPORTS.—

''(1) INTERIM REPORTS.—On or before June 9 of each year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate an annual interim report on the progress of the experiments and demonstration projects carried out under this subsection together with any related data and materials that the Commissioner may consider appropriate.

''(2) TERMINATION AND FINAL REPORT.—The authority under the preceding provisions of this section (including any waiver granted pursuant to subsection (c)) shall terminate 5 years after the date of the enactment of this Act. Not later than 90 days after the termination of any experiment or demonstration project carried out under this section, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a final report with respect to that experiment or demonstration project.''.

(b) CONFORMING AMENDMENTS; TRANSFER OF PRIOR AUTHORITY.—

(1) CONFORMING AMENDMENTS.—

(A) REPEAL OF PRIOR AUTHORITY.—Paragraphs (1) through (4) of subsection (a) and subsection (c) of section 505 of the Social Security Disability Amendments of 1980 (42 U.S.C. 1310 note) are repealed.

(B) CONFORMING AMENDMENT REGARDING FUNDING.—Section 201(k) of the Social Security Act (42 U.S.C. 401(k)) is amended by striking ''section 505(a) of the Social Security Disability Amendments of 1980'' and inserting ''section 234''.

(2) TRANSFER OF PRIOR AUTHORITY.—With respect to any experiment or demonstration project being conducted under section 505(a) of the Social Security Disability Amendments of 1980 (42 U.S.C. 1310 note) as of the date of the enactment of this Act, the authority to conduct such experiment or demonstration project (including the terms and conditions applicable to the experiment or demonstration project) shall be treated as if that authority (and such terms and conditions) had been established under section 234 of the Social Security Act, as added by subsection (a).

SEC. 302. DEMONSTRATION PROJECTS PROVIDING FOR REDUCTIONS IN DISABILITY INSURANCE BENEFITS BASED ON EARNINGS.

(a) AUTHORITY.—The Commissioner of Social Security shall conduct demonstration projects for the purpose of evaluating, through the collection of data, a program for title II disability beneficiaries (as defined in section 1148(k)(3) of the Social Security Act) under which benefits payable under section 223 of such Act, or under section 202 of such Act based on the beneficiary's disability, are reduced by $1 for each $2 of the beneficiary's earnings that is above a level to be determined by the Commissioner. Such projects shall be conducted at a number of localities which the Commissioner shall determine is sufficient to adequately evaluate the appropriateness of national implementation of such a program. Such projects shall identify reductions in Federal expenditures that may result from the permanent implementation of such a program.

(b) SCOPE AND SCALE AND MATTERS TO BE DETERMINED.—

(1) IN GENERAL.—The demonstration projects developed under subsection (a) shall be of sufficient duration, shall be of sufficient scope, and shall be carried out on a wide enough scale to permit a thorough evaluation of the project to determine—

(A) the effects, if any, of induced entry into the project and reduced exit from the project;

(B) the extent, if any, to which the project being tested is affected by whether it is in operation in a locality within an area under the administration of the Ticket to Work and Self-Sufficiency Program established under section 1148 of the Social Security Act; and

(C) the savings that accrue to the Federal Old-Age and Survivors Insurance Trust Fund, the Federal Disability Insurance Trust Fund, and other Federal programs under the project being tested.

The Commissioner shall take into account advice provided by the Ticket to Work and Work Incentives Advisory Panel pursuant to section 101(f)(2)(B)(ii) of this Act.

(2) ADDITIONAL MATTERS.—The Commissioner shall also determine with respect to each project—

(A) the annual cost (including net cost) of the project and the annual cost (including net cost) that would have been incurred in the absence of the project;

(B) the determinants of return to work, including the characteristics of the beneficiaries who participate in the project; and

(C) the employment outcomes, including wages, occupations, benefits, and hours worked, of beneficiaries who return to work as a result of participation in the project.

The Commissioner may include within the matters evaluated under the project the merits of trial work periods and periods of extended eligibility.

(c) WAIVERS.—The Commissioner may waive compliance with the benefit provisions of title II of the Social Security Act (42 U.S.C. 401 et seq.), and the Secretary of Health and Human Services may waive compliance with the benefit requirements of title XVIII of such Act (42 U.S.C. 1395 et seq.), insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such project shall be actually placed in operation unless at least 90 days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a).

(d) INTERIM REPORTS.—Not later than 2 years after the date of the enactment of this Act, and annually thereafter, the Commissioner of Social Security shall submit to the Congress an interim report on the progress of the demonstration projects carried out under this subsection together with any related data and materials that the Commissioner of Social Security may consider appropriate.

(e) FINAL REPORT.—The Commissioner of Social Security shall submit to the Congress a final report with respect to all demonstration projects carried out under this section not later than 1 year after their completion.

(f) EXPENDITURES.—Expenditures made for demonstration projects under this section shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Commissioner of Social Security, and from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund, as determined appropriate by the Secretary of Health and Human Services, to the extent provided in advance in appropriation Acts.

SEC. 303. STUDIES AND REPORTS.

(a) STUDY BY GENERAL ACCOUNTING OFFICE OF EXISTING DISABILITY-RELATED EMPLOYMENT INCENTIVES.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study to assess existing tax credits and other disability-related employment incentives under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and other Federal laws. In such study, the Comptroller General shall specifically address the extent to which such credits and other incentives would encourage employers to hire and retain individuals with disabilities.

(2) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the Comptroller General's study conducted pursuant to this subsection, together with such recommendations for legislative or administrative changes as the Comptroller General determines are appropriate.

(b) STUDY BY GENERAL ACCOUNTING OFFICE OF EXISTING COORDINATION OF THE DI AND SSI PROGRAMS AS THEY RELATE TO INDIVIDUALS ENTERING OR LEAVING CONCURRENT ENTITLEMENT.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study to evaluate the coordination under current law of the disability insurance program under title II of the Social Security Act (42 U.S.C. 401 et seq.) and the supplemental security income program under title XVI of such Act (42 U.S.C. 1381 et seq.), as such programs relate to individuals entering or leaving concurrent entitlement under such programs. In such study, the Comptroller General shall specifically address the effectiveness of work incentives under such programs with respect to such individuals and the effectiveness of coverage of such individuals under titles XVIII and XIX of such Act (42 U.S.C. 1395 et seq., 1396 et seq.).

(2) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the Comptroller General's study conducted pursuant to this subsection, together with such recommendations for legislative or administrative changes as the Comptroller General determines are appropriate.

(c) STUDY BY GENERAL ACCOUNTING OFFICE OF THE IMPACT OF THE SUBSTANTIAL GAINFUL ACTIVITY LIMIT ON RETURN TO WORK.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study of the substantial gainful activity level applicable as of that date to recipients of benefits under section 223 of the Social Security Act (42 U.S.C. 423) and under section 202 of such Act (42 U.S.C. 402) on the basis of a recipient having a disability, and the effect of such level as a disincentive for those recipients to return to work. In the study, the Comptroller General also shall address the merits of increasing the substantial gainful activity level applicable to such recipients of benefits and the rationale for not yearly indexing that level to inflation.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the Comptroller General's study conducted pursuant to this subsection, together with such recommendations for legislative or administrative changes as the Comptroller General determines are appropriate.

(d) REPORT ON DISREGARDS UNDER THE DI AND SSI PROGRAMS.—Not later than 90 days after the date of the enactment of this Act, the Commissioner of Social Security shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that—

(1) identifies all income, assets, and resource disregards (imposed under statutory or regulatory authority) that are applicable to individuals receiving benefits under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.);

(2) with respect to each such disregard—

(A) specifies the most recent statutory or regulatory modification of the disregard; and

(B) recommends whether further statutory or regulatory modification of the disregard would be appropriate; and

(3) with respect to the disregard described in section 1612(b)(7) of such Act (42 U.S.C. 1382a(b)(7)) (relating to grants, scholarships, or fellowships received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution)—

(A) identifies the number of individuals receiving benefits under title XVI of such Act (42 U.S.C. 1381 et seq.) who have attained age 22 and have not had any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution excluded from their income in accordance with that section;

(B) recommends whether the age at which such grants, scholarships, or fellowships are excluded from income for purposes of determining eligibility under title XVI of such Act (42 U.S.C. 1381 et seq.) should be increased to age 25; and

(C) recommends whether such disregard should be expanded to include any such grant, scholarship, or fellowship received for use in paying the cost of room and board at any such institution.

(e) STUDY BY THE GENERAL ACCOUNTING OFFICE OF SOCIAL SECURITY ADMINISTRATION'S DISABILITY INSURANCE PROGRAM DEMONSTRATION AUTHORITY.—

(1) STUDY.—As soon as practicable after the date of the enactment of this Act, the Comptroller General of the United States shall undertake a study to assess the results of the Social Security Administration's efforts to conduct disability demonstrations authorized under prior law as well as under section 234 of the Social Security Act (as added by section 301 of this Act).

(2) REPORT.—Not later than 5 years after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a written report presenting the results of the Comptroller General's study conducted pursuant to this section, together with a recommendation as to whether the demonstration authority authorized under section 234 of the Social Security Act (as added by section 301 of this Act) should be made permanent.

TITLE IV—MISCELLANEOUS AND TECHNICAL AMENDMENTS

SEC. 401. TECHNICAL AMENDMENTS RELATING TO DRUG ADDICTS AND ALCOHOLICS.

(a) CLARIFICATION RELATING TO THE EFFECTIVE DATE OF THE DENIAL OF SOCIAL SECURITY DISABILITY BENEFITS TO DRUG ADDICTS AND ALCOHOLICS.—Section 105(a)(5) of the Contract with America Advancement Act of 1996 (42 U.S.C. 405 note) is amended—

(1) in subparagraph (A), by striking ''by the Commissioner of Social Security'' and ''by the Commissioner''; and

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

''(D) For purposes of this paragraph, an individual's claim, with respect to benefits under title II based on disability, which has been denied in whole before the date of the enactment of this Act, may not be considered to be finally adjudicated before such date if, on or after such date—

''(i) there is pending a request for either administrative or judicial review with respect to such claim; or

''(ii) there is pending, with respect to such claim, a readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation by the Commissioner of a court remand order.

''(E) Notwithstanding the provisions of this paragraph, with respect to any individual for whom the Commissioner of Social Security does not perform the entitlement redetermination before the date prescribed in subparagraph (C), the Commissioner shall perform such entitlement redetermination in lieu of a continuing disability review whenever the Commissioner determines that the individual's entitlement is subject to redetermination based on the preceding provisions of this paragraph, and the provisions of section 223(f) shall not apply to such redetermination.''.

(b) CORRECTION TO EFFECTIVE DATE OF PROVISIONS CONCERNING REPRESENTATIVE PAYEES AND TREATMENT REFERRALS OF SOCIAL SECURITY BENEFICIARIES WHO ARE DRUG ADDICTS AND ALCOHOLICS.—Section 105(a)(5)(B) of the Contract with America Advancement Act of 1996 (42 U.S.C. 405 note) is amended to read as follows:

''(B) The amendments made by paragraphs (2) and (3) shall take effect on July 1, 1996, with respect to any individual—

''(i) whose claim for benefits is finally adjudicated on or after the date of the enactment of this Act; or

''(ii) whose entitlement to benefits is based upon an entitlement redetermination made pursuant to subparagraph (C).''.

(c) EFFECTIVE DATES.—The amendments made by this section shall take effect as if included in the enactment of section 105 of the Contract with America Advancement Act of 1996 (Public Law 104–121; 110 Stat. 852 et seq.).

SEC. 402. TREATMENT OF PRISONERS.

(a) IMPLEMENTATION OF PROHIBITION AGAINST PAYMENT OF TITLE II BENEFITS TO PRISONERS.—

(1) IN GENERAL.—Section 202(x)(3) of the Social Security Act (42 U.S.C. 402(x)(3)) is amended—

(A) by inserting ''(A)'' after ''(3)''; and

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

''(B)(i) The Commissioner shall enter into an agreement under this subparagraph with any interested State or local institution comprising a jail, prison, penal institution, or correctional facility, or comprising any other institution a purpose of which is to confine individuals as described in paragraph (1)(A)(ii). Under such agreement—

''(I) the institution shall provide to the Commissioner, on a monthly basis and in a manner specified by the Commissioner, the names, Social Security account numbers, dates of birth, confinement commencement dates, and, to the extent available to the institution, such other

identifying information concerning the individuals confined in the institution as the Commissioner may require for the purpose of carrying out paragraph (1) and other provisions of this title; and

''(II) the Commissioner shall pay to the institution, with respect to information described in subclause (I) concerning each individual who is confined therein as described in paragraph (1)(A), who receives a benefit under this title for the month preceding the first month of such confinement, and whose benefit under this title is determined by the Commissioner to be not payable by reason of confinement based on the information provided by the institution, $400 (subject to reduction under clause (ii)) if the institution furnishes the information to the Commissioner within 30 days after the date such individual's confinement in such institution begins, or $200 (subject to reduction under clause (ii)) if the institution furnishes the information after 30 days after such date but within 90 days after such date.

''(ii) The dollar amounts specified in clause (i)(II) shall be reduced by 50 percent if the Commissioner is also required to make a payment to the institution with respect to the same individual under an agreement entered into under section 1611(e)(1)(I).

''(iii) There are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as appropriate, such sums as may be necessary to enable the Commissioner to make payments to institutions required by clause (i)(II).

''(iv) The Commissioner shall maintain, and shall provide on a reimbursable basis, information obtained pursuant to agreements entered into under this paragraph to any agency administering a Federal or federally-assisted cash, food, or medical assistance program for eligibility and other administrative purposes under such program.''.

(2) CONFORMING AMENDMENTS TO THE PRIVACY ACT.—Section 552a(a)(8)(B) of title 5, United States Code, is amended—

(A) in clause (vi), by striking ''or'' at the end;

(B) in clause (vii), by adding ''or'' at the end; and

(C) by adding at the end the following new clause:

''(viii) matches performed pursuant to section 202(x)(3) or 1611(e)(1) of the Social Security Act (42 U.S.C. 402(x)(3), 1382(e)(1));''.

(3) CONFORMING AMENDMENTS TO TITLE XVI.—

(A) Section 1611(e)(1)(I)(i)(I) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)(i)(I)) is amended by striking ''; and'' and inserting ''and the other provisions of this title; and''.

(B) Section 1611(e)(1)(I)(ii)(II) of such Act (42 U.S.C. 1382(e)(1)(I)(ii)(II)) is amended by striking ''is authorized to provide, on a reimbursable basis,'' and inserting ''shall maintain, and shall provide on a reimbursable basis,''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals whose period of confinement in an institution commences on or after the first day of the fourth month beginning after the month in which this Act is enacted.

(b) ELIMINATION OF TITLE II REQUIREMENT THAT CONFINEMENT STEM FROM CRIME PUNISHABLE BY IMPRISONMENT FOR MORE THAN 1 YEAR.—

(1) IN GENERAL.—Section 202(x)(1)(A) of the Social Security Act (42 U.S.C. 402(x)(1)(A)) is amended—

(A) in the matter preceding clause (i), by striking ''during which'' and inserting ''ending with or during or beginning with or during a period of more than 30 days throughout all of which'';

(B) in clause (i), by striking ''an offense punishable by imprisonment for more than 1 year (regardless of the actual sentence imposed)'' and inserting ''a criminal offense''; and

(C) in clause (ii)(I), by striking ''an offense punishable by imprisonment for more than 1 year'' and inserting ''a criminal offense''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to individuals whose period of confinement in an institution commences on or after the first day of the fourth month beginning after the month in which this Act is enacted.

(c) CONFORMING TITLE XVI AMENDMENTS.—

(1) 50 PERCENT REDUCTION IN TITLE XVI PAYMENT IN CASE INVOLVING COMPARABLE TITLE II PAYMENT.—Section 1611(e)(1)(I) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)) is amended—

(A) in clause (i)(II), by inserting ''(subject to reduction under clause (ii))'' after ''$400'' and after ''$200'';

(B) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv) respectively; and

(C) by inserting after clause (i) the following new clause:

''(ii) The dollar amounts specified in clause (i)(II) shall be reduced by 50 percent if the Commissioner is also required to make a payment to the institution with respect to the same individual under an agreement entered into under section 202(x)(3)(B).''.

(2) EXPANSION OF CATEGORIES OF INSTITUTIONS ELIGIBLE TO ENTER INTO AGREEMENTS WITH THE COMMISSIONER.—Section 1611(e)(1)(I)(i) of such Act (42 U.S.C. 1382(e)(1)(I)(i)) is amended in the matter preceding subclause (I) by striking ''institution'' and all that follows through ''section 202(x)(1)(A),'' and inserting ''institution comprising a jail, prison, penal institution, or correctional facility, or with any other interested State or local institution a purpose of which is to confine individuals as described in section 202(x)(1)(A)(ii),''.

(3) ELIMINATION OF OVERLY BROAD EXEMPTION.—Section 1611(e)(1)(I)(iii) of such Act (42 U.S.C. 1382(e)(1)(I)(iii)) (as redesignated by paragraph (1)(B)) is amended further—

(A) by striking ''(I) The provisions'' and all that follows through ''(II)''; and

(B) by striking ''eligibility purposes'' and inserting ''eligibility and other administrative purposes under such program''.

(4) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the enactment of section 203(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104–193; 110 Stat. 2186). The reference to section 202(x)(1)(A)(ii) of the Social Security Act in section 1611(e)(1)(I)(i) of the Social Security Act, as amended by paragraph (2) of this subsection, shall be deemed a reference to such section 202(x)(1)(A)(ii) of such Act as amended by subsection (b)(1)(C) of this section.

(d) CONTINUED DENIAL OF BENEFITS TO SEX OFFENDERS REMAINING CONFINED TO PUBLIC INSTITUTIONS UPON COMPLETION OF PRISON TERM.—

(1) IN GENERAL.—Section 202(x)(1)(A) of the Social Security Act (42 U.S.C. 402(x)(1)(A)) is amended—

(A) in clause (i), by striking ''or'' at the end;

(B) in clause (ii)(IV), by striking the period and inserting '', or''; and

(C) by adding at the end the following new clause:

''(iii) immediately upon completion of confinement as described in clause (i) pursuant to conviction of a criminal offense an element of which is sexual activity, is confined by court order in an institution at public expense pursuant to a finding that the individual is a sexually dangerous person or a sexual predator or a similar finding.''.

(2) CONFORMING AMENDMENT.—Section 202(x)(1)(B)(ii) of such Act (42 U.S.C. 402(x)(1)(B)(ii)) is amended by striking ''clause (ii)'' and inserting ''clauses (ii) and (iii)''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to benefits for months ending after the date of the enactment of this Act.

SEC. 403. REVOCATION BY MEMBERS OF THE CLERGY OF EXEMPTION FROM SOCIAL SECURITY COVERAGE.

(a) IN GENERAL.—Notwithstanding section 1402(e)(4) of the Internal Revenue Code of 1986, any exemption which has been received under section 1402(e)(1) of such Code by a duly ordained, commissioned, or licensed minister of a church, a member of a religious order, or a Christian Science practitioner, and which is effective for the taxable year in which this Act is enacted, may be revoked by filing an application therefor (in such form and manner, and with such official, as may be prescribed by the Commissioner of Internal Revenue), if such application is filed no later than the due date of the Federal income tax return (including any extension thereof) for the applicant's second taxable year beginning after December 31, 1999. Any such revocation shall be effective (for purposes of chapter 2 of the Internal Revenue Code of 1986 and title II of the Social Security Act (42 U.S.C. 401 et seq.)), as specified in the application, either with respect to the applicant's first taxable year beginning after December 31, 1999, or with respect to the applicant's second taxable year beginning after such date, and for all succeeding taxable years; and the applicant for any such revocation may not thereafter again file application for an exemption under such section 1402(e)(1). If the application is filed after the due date of the applicant's Federal income tax return for a taxable year and is effective with respect to that taxable year, it shall include or be accompanied by payment in full of an amount equal to the total of the taxes that would have been imposed by section 1401 of the Internal Revenue Code of 1986 with respect to all of the applicant's income derived in that taxable year which would have constituted net earnings from self-employment for purposes of chapter 2 of such Code (notwithstanding paragraphs (4) and (5) of section 1402(c)) except for the exemption under section 1402(e)(1) of such Code.

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to service performed (to the extent specified in such subsection) in taxable years beginning after December 31, 1999, and with respect to monthly insurance benefits payable under title II on the basis of the wages and self-employment income of any individual for months in or after the calendar year in which such individual's application for revocation (as described in such subsection) is effective (and lump-sum death payments payable under such title on the basis of such wages and self-employment income in the case of deaths occurring in or after such calendar year).

SEC. 404. ADDITIONAL TECHNICAL AMENDMENT RELATING TO COOPERATIVE RESEARCH OR DEMONSTRATION PROJECTS UNDER TITLES II AND XVI.

(a) IN GENERAL.—Section 1110(a)(3) of the Social Security Act (42 U.S.C. 1310(a)(3)) is amended by striking ''title XVI'' and inserting ''title II or XVI''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Social Security Independence and Program Improvements Act of 1994 (Public Law 103–296; 108 Stat. 1464).

SEC. 405. AUTHORIZATION FOR STATE TO PERMIT ANNUAL WAGE REPORTS.

(a) IN GENERAL.—Section 1137(a)(3) of the Social Security Act (42 U.S.C. 1320b–7(a)(3)) is amended by inserting before the semicolon the following: '', and except that in the case of wage reports with respect to domestic service employment, a State may permit employers (as so defined) that make returns with respect to such employment on a calendar year basis pursuant to section 3510 of the Internal Revenue Code of 1986 to make such reports on an annual basis''.

(b) TECHNICAL AMENDMENTS.—Section 1137(a)(3) of the Social Security Act (42 U.S.C. 1320b–7(a)(3)) is amended—

(1) by striking ''(as defined in section 453A(a)(2)(B)(iii))''; and

(2) by inserting ''(as defined in section 453A(a)(2)(B))'' after ''employers''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to wage reports required to be submitted on and after the date of the enactment of this Act.

SEC. 406. ASSESSMENT ON ATTORNEYS WHO RECEIVE THEIR FEES VIA THE SOCIAL SECURITY ADMINISTRATION.

(a) ASSESSMENT ON ATTORNEYS.—

(1) IN GENERAL.—Section 206 of the Social Security Act (42 U.S.C. 406) is amended by adding at the end the following new subsection:

''(d) ASSESSMENT ON ATTORNEYS.—

''(1) IN GENERAL.—Whenever a fee for services is required to be certified for payment to an attorney from a claimant's past-due benefits pursuant to subsection (a)(4) or (b)(1), the Commissioner shall impose on the attorney an assessment calculated in accordance with paragraph (2).

''(2) AMOUNT.—

''(A) The amount of an assessment under paragraph (1) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be so certified by subsection (a)(4) or (b)(1) before the application of this subsection, by the percentage specified in subparagraph (B).

''(B) The percentage specified in this subparagraph is—

''(i) for calendar years before 2001, 6.3 percent, and

''(ii) for calendar years after 2000, such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and certifying fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

''(3) COLLECTION.—The Commissioner may collect the assessment imposed on an attorney under paragraph (1) by offset from the amount of the fee otherwise required by subsection (a)(4) or (b)(1) to be certified for payment to the attorney from a claimant's past-due benefits.

''(4) PROHIBITION ON CLAIMANT REIMBURSEMENT.—An attorney subject to an assessment under paragraph (1) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

''(5) DISPOSITION OF ASSESSMENTS.—Assessments on attorneys collected under this subsection shall be credited to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, as appropriate.

''(6) AUTHORIZATION OF APPROPRIATIONS.—The assessments authorized under this section shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.''.

(2) CONFORMING AMENDMENTS.—

(A) Section 206(a)(4)(A) of such Act (42 U.S.C. 406(a)(4)(A)) is amended by inserting ''and subsection (d)'' after ''subparagraph (B)''.

(B) Section 206(b)(1)(A) of such Act (42 U.S.C. 406(b)(1)(A)) is amended by inserting '', but subject to subsection (d) of this section'' after ''section 205(i)''.

(b) ELIMINATION OF 15-DAY WAITING PERIOD FOR PAYMENT OF FEES.—Section 206(a)(4) of such Act (42 U.S.C. 406(a)(4)), as amended by subsection (a)(2)(A) of this section, is amended—

(1) by striking ''(4)(A)'' and inserting ''(4)'';

(2) by striking ''subparagraph (B) and''; and

(3) by striking subparagraph (B).

(c) GAO STUDY AND REPORT.—

(1) STUDY.—The Comptroller General of the United States shall conduct a study that—

(A) examines the costs incurred by the Social Security Administration in administering the provisions of subsection (a)(4) and (b)(1) of section 206 of the Social Security Act (42 U.S.C. 406) and itemizes the components of such costs, including the costs of determining fees to attorneys from the past-due benefits of claimants before the Commissioner of Social Security and of certifying such fees;

(B) identifies efficiencies that the Social Security Administration could implement to reduce such costs;

(C) examines the feasibility and advisability of linking the payment of, or the amount of, the assessment under section 206(d) of the Social Security Act (42 U.S.C. 406(d)) to the timeliness of the payment of the fee to the attorney as certified by the Commissioner of Social Security pursuant to subsection (a)(4) or (b)(1) of section 206 of such Act (42 U.S.C. 406);

(D) determines whether the provisions of subsection (a)(4) and (b)(1) of section 206 of such Act (42 U.S.C. 406) should be applied to claimants under title XVI of such Act (42 U.S.C 1381 et seq.);

(E) determines the feasibility and advisability of stating fees under section 206(d) of such Act (42 U.S.C. 406(d)) in terms of a fixed dollar amount as opposed to a percentage;

(F) determines whether the dollar limit specified in section 206(a)(2)(A)(ii)(II) of such Act (42 U.S.C. 406(a)(2)(A)(ii)(II)) should be raised; and

(G) determines whether the assessment on attorneys required under section 206(d) of such Act (42 U.S.C. 406(d)) (as added by subsection (a)(1) of this section) impairs access to legal representation for claimants.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under paragraph (1), together with any recommendations for legislation that the Comptroller General determines to be appropriate as a result of such study.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply in the case of any attorney with respect to whom a fee for services is required to be certified for payment from a claimant's past-due benefits pursuant to subsection (a)(4) or (b)(1) of section 206 of the Social Security Act after the later of—

(1) December 31, 1999, or

(2) the last day of the first month beginning after the month in which this Act is enacted.

SEC. 407. EXTENSION OF AUTHORITY OF STATE MEDICAID FRAUD CONTROL UNITS.

(a) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE FRAUD IN OTHER FEDERAL HEALTH CARE PROGRAMS.—Section 1903(q)(3) of the Social Security Act (42 U.S.C. 1396b(q)(3)) is amended—

(1) by inserting ''(A)'' after ''in connection with''; and

(2) by striking ''title.'' and inserting ''title; and (B) upon the approval of the Inspector General of the relevant Federal agency, any aspect of the provision of health care services and activities of providers of such services under any Federal health care program (as defined in section 1128B(f)(1)), if the suspected fraud or violation of law in such case or investigation is primarily related to the State plan under this title.''.

(b) RECOUPMENT OF FUNDS.—Section 1903(q)(5) of such Act (42 U.S.C. 1396b(q)(5)) is amended—

(1) by inserting ''or under any Federal health care program (as so defined)'' after ''plan''; and

(2) by adding at the end the following: ''All funds collected in accordance with this paragraph shall be credited exclusively to, and available for expenditure under, the Federal health care program (including the State plan under this title) that was subject to the activity that was the basis for the collection.''.

(c) EXTENSION OF AUTHORITY TO INVESTIGATE AND PROSECUTE RESIDENT ABUSE IN NON-MEDICAID BOARD AND CARE FACILITIES.—Section 1903(q)(4) of such Act (42 U.S.C. 1396b(q)(4)) is amended to read as follows:

''(4)(A) The entity has—

''(i) procedures for reviewing complaints of abuse or neglect of patients in health care facilities which receive payments under the State plan under this title;

''(ii) at the option of the entity, procedures for reviewing complaints of abuse or neglect of patients residing in board and care facilities; and

''(iii) procedures for acting upon such complaints under the criminal laws of the State or for referring such complaints to other State agencies for action.

''(B) For purposes of this paragraph, the term 'board and care facility' means a residential setting which receives payment (regardless of whether such payment is made under the State plan under this title) from or on behalf of two or more unrelated adults who reside in such facility, and for whom one or both of the following is provided:

''(i) Nursing care services provided by, or under the supervision of, a registered nurse, licensed practical nurse, or licensed nursing assistant.

''(ii) A substantial amount of personal care services that assist residents with the activities of daily living, including personal hygiene, dressing, bathing, eating, toileting, ambulation, transfer, positioning, self-medication, body care, travel to medical services, essential shopping, meal preparation, laundry, and housework.''.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on the date of the enactment of this Act.

SEC. 408. CLIMATE DATABASE MODERNIZATION.

Notwithstanding any other provision of law, the National Oceanic and Atmospheric Administration (NOAA) shall contract for its multi-year program for climate database modernization and utilization in accordance with NIH Image World Contract #263-96-D-0323 and Task Order #56-DKNE-9-98303 which were awarded as a result of fair and open competition conducted in response to NOAA's solicitation IW SOW 1082.

SEC. 409. SPECIAL ALLOWANCE ADJUSTMENT FOR STUDENT LOANS.

(a) AMENDMENT.—Section 438(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)) is amended—

(1) in subparagraph (A), by striking ''(G), and (H)'' and inserting ''(G), (H), and (I)'';

(2) in subparagraph (B)(iv), by striking ''(G), or (H)'' and inserting ''(G), (H), or (I)'';

(3) in subparagraph (C)(ii), by striking ''(G) and (H)'' and inserting ''(G), (H), and (I)'';

(4) in the heading of subparagraph (H), by striking ''JULY 1, 2003'' and inserting ''JANUARY 1, 2000'';

(5) in subparagraph (H), by striking ''July 1, 2003,'' each place it appears and inserting ''January 1, 2000,''; and

(6) by inserting after subparagraph (H) the following new subparagraph:

''(I) LOANS DISBURSED ON OR AFTER JANUARY 1, 2000, AND BEFORE JULY 1, 2003.—

''(i) IN GENERAL.—Notwithstanding subparagraphs (G) and (H), but subject to paragraph (4) and clauses (ii), (iii), and (iv) of this subparagraph, and except as provided in subparagraph (B), the special allowance paid pursuant to this subsection on loans for which the first disbursement is made on or after January 1, 2000, and before July 1, 2003, shall be computed—

''(I) by determining the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period;

''(II) by subtracting the applicable interest rates on such loans from such average bond equivalent rate;

''(III) by adding 2.34 percent to the resultant percent; and

''(IV) by dividing the resultant percent by 4.

''(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan for which the first disbursement is made on or after January 1, 2000, and before July 1, 2003, and for which the applicable rate of interest is described in section 427A(k)(2), clause (i)(III) of this subparagraph shall be applied by substituting '1.74 percent' for '2.34 percent'.

''(iii) PLUS LOANS.—In the case of any loan for which the first disbursement is made on or after January 1, 2000, and before July 1, 2003, and for which the applicable rate of interest is described in section 427A(k)(3), clause (i)(III) of this subparagraph shall be applied by substituting '2.64 percent' for '2.34 percent', subject to clause (v) of this subparagraph.

''(iv) CONSOLIDATION LOANS.—In the case of any consolidation loan for which the application is received by an eligible lender on or after January 1, 2000, and before July 1, 2003, and for which the applicable interest rate is determined under section 427A(k)(4), clause (i)(III) of this subparagraph shall be applied by substituting '2.64 percent' for '2.34 percent', subject to clause (vi) of this subparagraph.

''(v) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS.—In the case of PLUS loans made under section 428B and first disbursed on or after January 1, 2000, and before July 1, 2003, for which the interest rate is determined under section 427A(k)(3), a special allowance shall not be paid for such loan during any 12-month period beginning on July 1 and ending on June 30 unless, on the June 1 preceding such July 1—

''(I) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1 (as determined by the Secretary for purposes of such section); plus

''(II) 3.1 percent,

exceeds 9.0 percent.

''(vi) LIMITATION ON SPECIAL ALLOWANCES FOR CONSOLIDATION LOANS.—In the case of consolidation loans made under section 428C and for which the application is received on or after January 1, 2000, and before July 1, 2003, for which the interest rate is determined under section 427A(k)(4), a special allowance shall not be paid for such loan during any 3-month period ending March 31, June 30, September 30, or December 31 unless—

''(I) the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial) rates in effect for each of the days in such quarter as reported by the Federal Reserve in Publication H–15 (or its successor) for such 3-month period; plus

''(II) 2.64 percent,

exceeds the rate determined under section 427A(k)(4).''.

(b) EFFECTIVE DATE.—Subparagraph (I) of section 438(b)(2) of the Higher Education Act of 1965 (20 U.S.C. 1087–1(b)(2)) as added by subsection (a) of this section shall apply with respect to any payment pursuant to such section with respect to any 3-month period beginning on or after January 1, 2000, for loans for which the first disbursement is made after such date.

SEC. 410. SCHEDULE FOR PAYMENTS UNDER SSI STATE SUPPLEMENTATION AGREEMENTS.

(a) SCHEDULE FOR SSI SUPPLEMENTATION PAYMENTS.—

(1) IN GENERAL.—Section 1616(d) of the Social Security Act (42 U.S.C. 1382e(d)) is amended—

(A) in paragraph (1), by striking ''at such times and in such installments as may be agreed upon between the Commissioner of Social Security and such State'' and inserting ''in accordance with paragraph (5)''; and

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

''(5)(A)(i) Any State which has entered into an agreement with the Commissioner of Social Security under this section shall remit the payments and fees required under this subsection with respect to monthly benefits paid to individuals under this title no later than—

''(I) the business day preceding the date that the Commissioner pays such monthly benefits; or

''(II) with respect to such monthly benefits paid for the month that is the last month of the State's fiscal year, the fifth business day following such date.

''(ii) The Commissioner may charge States a penalty in an amount equal to 5 percent of the payment and the fees due if the remittance is received after the date required by clause (i).

''(B) The Cash Management Improvement Act of 1990 shall not apply to any payments or fees required under this subsection that are paid by a State before the date required by subparagraph (A)(i).

''(C) Notwithstanding subparagraph (A)(i), the Commissioner may make supplementary payments on behalf of a State with funds appropriated for payment of benefits under this title, and subsequently to be reimbursed for such payments by the State at such times as the Commissioner and State may agree. Such authority may be exercised only if extraordinary circumstances affecting a State's ability to make payment when required by subparagraph (A)(i) are determined by the Commissioner to exist.''.

(2) AMENDMENT TO SECTION 212.—Section 212 of Public Law 93-66 (42 U.S.C. 1382 note) is amended—

(A) in subsection (b)(3)(A), by striking ''at such times and in such installments as may be agreed upon between the Secretary and the State'' and inserting ''in accordance with subparagraph (E)'';

(B) by adding at the end of subsection (b)(3) the following new subparagraph:

''(E)(i) Any State which has entered into an agreement with the Commissioner of Social Security under this section shall remit the payments and fees required under this paragraph with respect to monthly benefits paid to individuals under title XVI of the Social Security Act no later than—

''(I) the business day preceding the date that the Commissioner pays such monthly benefits; or

''(II) with respect to such monthly benefits paid for the month that is the last month of the State's fiscal year, the fifth business day following such date.

''(ii) The Cash Management Improvement Act of 1990 shall not apply to any payments or fees required under this paragraph that are paid by a State before the date required by clause (i).

''(iii) Notwithstanding clause (i), the Commissioner may make supplementary payments on behalf of a State with funds appropriated for payment of supplemental security income benefits under title XVI of the Social Security Act, and subsequently to be reimbursed for such payments by the State at such times as the Commissioner and State may agree. Such authority may be exercised only if extraordinary circumstances affecting a State's ability to make payment when required by clause (i) are determined by the Commissioner to exist.''; and

(C) by striking ''Secretary of Health, Education, and Welfare'' and ''Secretary'' each place such term appear and inserting ''Commissioner of Social Security''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments and fees arising under an agreement between a State and the Commissioner of Social Security under section 1616 of the Social Security Act (42 U.S.C. 1382e) or under section 212 of Public Law 93-66 (42 U.S.C. 1382 note) with respect to monthly benefits paid to individuals under title XVI of the Social Security Act for months after September 2009 (October 2009 in the case of a State with a fiscal year that coincides with the Federal fiscal year), without regard to whether the agreement has been modified to reflect such amendments or the Commissioner has promulgated regulations implementing such amendments.

SEC. 411. BONUS COMMODITIES.

Section 6(e)(1) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(e)(1)) is amended—

(1) by striking ''in the form of commodity assistance'' and inserting ''in the form of—

''(A) commodity assistance'';

(2) by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(B) during the period beginning October 1, 2000, and ending September 30, 2009, commodities provided by the Secretary under any provision of law.''.

SEC. 412. SIMPLIFICATION OF DEFINITION OF FOSTER CHILD UNDER EIC.

(a) IN GENERAL.—Section 32(c)(3)(B)(iii) of the Internal Revenue Code of 1986 (defining eligible foster child) is amended by redesignating subclauses (I) and (II) as subclauses (II) and (III), respectively, and by inserting before subclause (II), as so redesignated, the following:

''(I) is a brother, sister, stepbrother, or stepsister of the taxpayer (or a descendant of any such relative) or is placed with the taxpayer by an authorized placement agency,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 413. DELAY OF EFFECTIVE DATE OF ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK FINAL RULE.

(a) IN GENERAL.—The final rule entitled ''Organ Procurement and Transplantation Network'', promulgated by the Secretary of Health and Human Services on April 2, 1998 (63 Fed. Reg. 16295 et seq.) (relating to part 121 of title 42, Code of Federal Regulations), together with the amendments to such rules promulgated on October 20, 1999 (64 Fed. Reg. 56649 et seq.) shall not become effective before the expiration of the 90-day period beginning on the date of the enactment of this Act.

(b) NOTICE AND REVIEW.—For purposes of subsection (a):

(1) Not later than 3 days after the date of the enactment of this Act, the Secretary of Health and Human Services (referred to in this subsection as the ''Secretary'') shall publish in the Federal Register a notice providing that the period within which comments on the final rule may be submitted to the Secretary is 60 days after the date of such publication of the notice.

(2) Not later than 21 days after the expiration of such 60-day period, the Secretary shall complete the review of the comments submitted pursuant to paragraph (1) and shall amend the final rule with any revisions appropriate according to the review by the Secretary of such comments. The final rule may be in the form of amendments to the rule referred to in subsection (a) that was promulgated on April 2, 1998, and in the form of amendments to the rule referred to in such subsection that was promulgated on October 20, 1999.

TITLE V—TAX RELIEF EXTENSION ACT OF 1999

SEC. 500. SHORT TITLE OF TITLE.

This title may be cited as the ''Tax Relief Extension Act of 1999''.

Subtitle A—Extensions

SEC. 501. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

(a) IN GENERAL.—Subsection (a) of section 26 of the Internal Revenue Code of 1986 (relating to limitation based on amount of tax) is amended to read as follows:

''(a) LIMITATION BASED ON AMOUNT OF TAX.—

''(1) IN GENERAL.—The aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the excess (if any) of—

''(A) the taxpayer's regular tax liability for the taxable year, over

''(B) the tentative minimum tax for the taxable year (determined without regard to the alternative minimum tax foreign tax credit).

For purposes of subparagraph (B), the taxpayer's tentative minimum tax for any taxable year beginning during 1999 shall be treated as being zero.''.

''(2) SPECIAL RULE FOR 2000 AND 2001.—For purposes of any taxable year beginning during 2000 or 2001, the aggregate amount of credits allowed by this subpart for the taxable year shall not exceed the sum of—

''(A) the taxpayer's regular tax liability for the taxable year reduced by the foreign tax credit allowable under section 27(a), and

''(B) the tax imposed by section 55(a) for the taxable year.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 24(d)(2) of such Code is amended by striking ''1998'' and inserting ''2001''.

(2) Section 904(h) of such Code is amended by adding at the end the following: ''This subsection shall not apply to taxable years beginning during 2000 or 2001.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

SEC. 502. RESEARCH CREDIT.

(a) EXTENSION.—

(1) IN GENERAL.—Paragraph (1) of section 41(h) of the Internal Revenue Code of 1986 (relating to termination) is amended—

(A) by striking ''June 30, 1999'' and inserting ''June 30, 2004'', and

(B) by striking the material following subparagraph (B).

(2) TECHNICAL AMENDMENT.—Subparagraph (D) of section 45C(b)(1) of such Code is amended by striking ''June 30, 1999'' and inserting ''June 30, 2004''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after June 30, 1999.

(b) INCREASE IN PERCENTAGES UNDER ALTERNATIVE INCREMENTAL CREDIT.—

(1) IN GENERAL.—Subparagraph (A) of section 41(c)(4) of such Code is amended—

(A) by striking ''1.65 percent'' and inserting ''2.65 percent'',

(B) by striking ''2.2 percent'' and inserting ''3.2 percent'', and

(C) by striking ''2.75 percent'' and inserting ''3.75 percent''.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after June 30, 1999.

(c) EXTENSION OF RESEARCH CREDIT TO RESEARCH IN PUERTO RICO AND THE POSSESSIONS OF THE UNITED STATES.—

(1) IN GENERAL.—Subsections (c)(6) and (d)(4)(F) of section 41 of such Code (relating to foreign research) are each amended by inserting '', the Commonwealth of Puerto Rico, or any possession of the United States'' after ''United States''.

(2) DENIAL OF DOUBLE BENEFIT.—Section 280C(c)(1) of such Code is amended by inserting ''or credit'' after ''deduction'' each place it appears.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to amounts paid or incurred after June 30, 1999.

(d) SPECIAL RULE.—

(1) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, the credit determined under section 41 of such Code which is otherwise allowable under such Code—

(A) shall not be taken into account prior to October 1, 2000, to the extent such credit is attributable to the first suspension period, and

(B) shall not be taken into account prior to October 1, 2001, to the extent such credit is attributable to the second suspension period.

On or after the earliest date that an amount of credit may be taken into account, such amount may be taken into account through the filing of an amended return, an application for expedited refund, an adjustment of estimated taxes, or other means allowed by such Code.

(2) SUSPENSION PERIODS.—For purposes of this subsection—

(A) the first suspension period is the period beginning on July 1, 1999, and ending on September 30, 2000, and

(B) the second suspension period is the period beginning on October 1, 2000, and ending on September 30, 2001.

(3) EXPEDITED REFUNDS.—

(A) IN GENERAL.—If there is an overpayment of tax with respect to a taxable year by reason of paragraph (1), the taxpayer may file an application for a tentative refund of such overpayment. Such application shall be in such manner and form, and contain such information, as the Secretary may prescribe.

(B) DEADLINE FOR APPLICATIONS.—Subparagraph (A) shall apply only to an application filed before the date which is 1 year after the close of the suspension period to which the application relates.

(C) ALLOWANCE OF ADJUSTMENTS.—Not later than 90 days after the date on which an application is filed under this paragraph, the Secretary shall—

(i) review the application,

(ii) determine the amount of the overpayment, and

(iii) apply, credit, or refund such overpayment,

in a manner similar to the manner provided in section 6411(b) of such Code.

(D) CONSOLIDATED RETURNS.—The provisions of section 6411(c) of such Code shall apply to an adjustment under this paragraph in such manner as the Secretary may provide.

(4) CREDIT ATTRIBUTABLE TO SUSPENSION PERIOD.—

(A) IN GENERAL.—For purposes of this subsection, in the case of a taxable year which includes a portion of the suspension period, the amount of credit determined under section 41 of such Code for such taxable year which is attributable to such period is the amount which bears the same ratio to the amount of credit determined under such section 41 for such taxable year as the number of months in the suspension period which are during such taxable year bears to the number of months in such taxable year.

(B) WAIVER OF ESTIMATED TAX PENALTIES.—No addition to tax shall be made under section 6654 or 6655 of such Code for any period before July 1, 1999, with respect to any underpayment of tax imposed by such Code to the extent such underpayment was created or increased by reason of subparagraph (A).

(5) SECRETARY.—For purposes of this subsection, the term ''Secretary'' means the Secretary of the Treasury (or such Secretary's delegate).

SEC. 503. SUBPART F EXEMPTION FOR ACTIVE FINANCING INCOME.

(a) IN GENERAL.—Sections 953(e)(10) and 954(h)(9) of the Internal Revenue Code of 1986 (relating to application) are each amended—

(1) by striking ''the first taxable year'' and inserting ''taxable years'',

(2) by striking ''January 1, 2000'' and inserting ''January 1, 2002'', and

(3) by striking ''within which such'' and inserting ''within which any such''.

(b) TECHNICAL AMENDMENT.—Paragraph (10) of section 953(e) of such Code is amended by adding at the end the following new sentence: ''If this subsection does not apply to a taxable year of a foreign corporation beginning after December 31, 2001 (and taxable years of United States shareholders ending with or within such taxable year), then, notwithstanding the preceding sentence, subsection (a) shall be applied to such taxable years in the same manner as it would if the taxable year of the foreign corporation began in 1998.''

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 504. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR MARGINAL PRODUCTION.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) of the Internal Revenue Code of 1986 (relating to temporary suspension of taxable limit with respect to marginal production) is amended by striking ''January 1, 2000'' and inserting ''January 1, 2002''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1999.

SEC. 505. WORK OPPORTUNITY CREDIT AND WELFARE-TO-WORK CREDIT.

(a) TEMPORARY EXTENSION.—Sections 51(c)(4)(B) and 51A(f) of the Internal Revenue Code of 1986 (relating to termination) are each amended by striking ''June 30, 1999'' and inserting ''December 31, 2001''.

(b) CLARIFICATION OF FIRST YEAR OF EMPLOYMENT.—Paragraph (2) of section 51(i) of such Code is amended by striking ''during which he was not a member of a targeted group''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to individuals who begin work for the employer after June 30, 1999.

SEC. 506. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 of the Internal Revenue Code of 1986 (relating to termination) is amended by striking ''May 31, 2000'' and inserting ''December 31, 2001''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to courses beginning after May 31, 2000.

SEC. 507. EXTENSION AND MODIFICATION OF CREDIT FOR PRODUCING ELECTRICITY FROM CERTAIN RENEWABLE RESOURCES.

(a) EXTENSION AND MODIFICATION OF PLACED-IN-SERVICE RULES.—Paragraph (3) of section 45(c) of the Internal Revenue Code of 1986 is amended to read as follows:

''(3) QUALIFIED FACILITY.—

''(A) WIND FACILITY.—In the case of a facility using wind to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before January 1, 2002.

''(B) CLOSED-LOOP BIOMASS FACILITY.—In the case of a facility using closed-loop biomass to produce electricity, the term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2002.

''(C) POULTRY WASTE FACILITY.—In the case of a facility using poultry waste to produce electricity, the term 'qualified facility' means any facility of the taxpayer which is originally placed in service after December 31, 1999, and before January 1, 2002.''.

(b) EXPANSION OF QUALIFIED ENERGY RESOURCES.—

(1) IN GENERAL.—Section 45(c)(1) of such Code (defining qualified energy resources) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) poultry waste.''.

(2) DEFINITION.—Section 45(c) of such Code is amended by adding at the end the following new paragraph:

''(4) POULTRY WASTE.—The term 'poultry waste' means poultry manure and litter, including wood shavings, straw, rice hulls, and other bedding material for the disposition of manure.''.

(c) SPECIAL RULES.—Section 45(d) of such Code (relating to definitions and special rules) is amended by adding at the end the following new paragraphs:

''(6) CREDIT ELIGIBILITY IN THE CASE OF GOVERNMENT-OWNED FACILITIES USING POULTRY WASTE.—In the case of a facility using poultry waste to produce electricity and owned by a governmental unit, the person eligible for the credit under subsection (a) is the lessee or the operator of such facility.

''(7) CREDIT NOT TO APPLY TO ELECTRICITY SOLD TO UTILITIES UNDER CERTAIN CONTRACTS.—

''(A) IN GENERAL.—The credit determined under subsection (a) shall not apply to electricity—

''(i) produced at a qualified facility described in paragraph (3)(A) which is placed in service by the taxpayer after June 30, 1999, and

''(ii) sold to a utility pursuant to a contract originally entered into before January 1, 1987 (whether or not amended or restated after that date).

''(B) EXCEPTION.—Subparagraph (A) shall not apply if—

''(i) the prices for energy and capacity from such facility are established pursuant to an amendment to the contract referred to in subparagraph (A)(ii),

''(ii) such amendment provides that the prices set forth in the contract which exceed avoided cost prices determined at the time of delivery shall apply only to annual quantities of electricity (prorated for partial years) which do not exceed the greater of—

''(I) the average annual quantity of electricity sold to the utility under the contract during calendar years 1994, 1995, 1996, 1997, and 1998, or

''(II) the estimate of the annual electricity production set forth in the contract, or, if there is no such estimate, the greatest annual quantity of electricity sold to the utility under the contract in any of the calendar years 1996, 1997, or 1998, and

''(iii) such amendment provides that energy and capacity in excess of the limitation in clause (ii) may be—

''(I) sold to the utility only at prices that do not exceed avoided cost prices determined at the time of delivery, or

''(II) sold to a third party subject to a mutually agreed upon advance notice to the utility. For purposes of this subparagraph, avoided cost prices shall be determined as provided for in 18 CFR 292.304(d)(1) or any successor regulation.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 508. EXTENSION OF DUTY-FREE TREATMENT UNDER GENERALIZED SYSTEM OF PREFERENCES.

(a) IN GENERAL.—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended by striking ''June 30, 1999'' and inserting ''September 30, 2001''.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section applies to articles entered on or after the date of the enactment of this Act.

(2) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(A) GENERAL RULE.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (3), any entry—

(i) of an article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if such entry had been made on July 1, 1999, and such title had been in effect on July 1, 1999, and

(ii) that was made—

(I) after June 30, 1999, and

(II) before the date of enactment of this Act, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(B) ENTRY.—As used in this paragraph, the term ''entry'' includes a withdrawal from warehouse for consumption.

(3) REQUESTS.—Liquidation or reliquidation may be made under paragraph (2) with respect to an entry only if a request therefore is filed with the Customs Service, within 180 days after the date of enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry, or

(B) to reconstruct the entry if it cannot be located.

SEC. 509. EXTENSION OF CREDIT FOR HOLDERS OF QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Section 1397E(e)(1) of the Internal Revenue Code of 1986 (relating to national limitation) is amended by striking ''and 1999'' and inserting '', 1999, 2000, and 2001''.

(b) LIMITATION ON CARRYOVER PERIODS.—Paragraph (4) of section 1397E(e) of such Code is amended by adding at the end the following flush sentences:

''Any carryforward of a limitation amount may be carried only to the first 2 years (3 years for carryforwards from 1998 or 1999) following the unused limitation year. For purposes of the preceding sentence, a limitation amount shall be treated as used on a first-in first-out basis.''

SEC. 510. EXTENSION OF FIRST-TIME HOMEBUYER CREDIT FOR DISTRICT OF COLUMBIA.

Section 1400C(i) of the Internal Revenue Code of 1986 is amended by striking ''2001'' and inserting ''2002''.

SEC. 511. EXTENSION OF EXPENSING OF ENVIRONMENTAL REMEDIATION COSTS.

Section 198(h) of the Internal Revenue Code of 1986 is amended by striking ''2000'' and inserting ''2001''.

SEC. 512. TEMPORARY INCREASE IN AMOUNT OF RUM EXCISE TAX COVERED OVER TO PUERTO RICO AND VIRGIN ISLANDS.

(a) IN GENERAL.—Section 7652(f)(1) of the Internal Revenue Code of 1986 (relating to limitation on cover over of tax on distilled spirits) is amended to read as follows:

''(1) $10.50 ($13.25 in the case of distilled spirits brought into the United States after June 30, 1999, and before January 1, 2002), or''.

(b) SPECIAL COVER OVER TRANSFER RULES.—Notwithstanding section 7652 of the Internal Revenue Code of 1986, the following rules shall apply with respect to any transfer before October 1, 2000, of amounts relating to the increase in the cover over of taxes by reason of the amendment made by subsection (a):

(1) INITIAL TRANSFER OF INCREMENTAL INCREASE IN COVER OVER.—The Secretary of the Treasury shall, within 15 days after the date of the enactment of this Act, transfer an amount equal to the lesser of—

(A) the amount of such increase otherwise required to be covered over after June 30, 1999, and before the date of the enactment of this Act, or

(B) $20,000,000.

(2) TRANSFER OF INCREMENTAL INCREASE FOR FISCAL YEAR 2001.—The Secretary of the Treasury shall on October 1, 2000, transfer an amount equal to the excess of—

(A) the amount of such increase otherwise required to be covered over after June 30, 1999, and before October 1, 2000, over

(B) the amount of the transfer described in paragraph (1).

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on July 1, 1999.

Subtitle B—Other Time-Sensitive Provisions

SEC. 521. ADVANCE PRICING AGREEMENTS TREATED AS CONFIDENTIAL TAXPAYER INFORMATION.

(a) IN GENERAL.—

(1) TREATMENT AS RETURN INFORMATION.—Paragraph (2) of section 6103(b) of the Internal Revenue Code of 1986 (defining return information) is amended by striking ''and'' at the end of subparagraph (A), by inserting ''and'' at the end of subparagraph (B), and by inserting after subparagraph (B) the following new subparagraph:

''(C) any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement,''.

(2) EXCEPTION FROM PUBLIC INSPECTION AS WRITTEN DETERMINATION.—Paragraph (1) of section 6110(b) of such Code (defining written determination) is amended by adding at the end the following new sentence: ''Such term shall not include any advance pricing agreement entered into by a taxpayer and the Secretary and any background information related to such agreement or any application for an advance pricing agreement.''.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b) ANNUAL REPORT REGARDING ADVANCE PRICING AGREEMENTS.—

(1) IN GENERAL.—Not later than 90 days after the end of each calendar year, the Secretary of the Treasury shall prepare and publish a report regarding advance pricing agreements.

(2) CONTENTS OF REPORT.—The report shall include the following for the calendar year to which such report relates:

(A) Information about the structure, composition, and operation of the advance pricing agreement program office.

(B) A copy of each model advance pricing agreement.

(C) The number of—

(i) applications filed during such calendar year for advance pricing agreements;

(ii) advance pricing agreements executed cumulatively to date and during such calendar year;

(iii) renewals of advance pricing agreements issued;

(iv) pending requests for advance pricing agreements;

(v) pending renewals of advance pricing agreements;

(vi) for each of the items in clauses (ii) through (v), the number that are unilateral, bilateral, and multilateral, respectively;

(vii) advance pricing agreements revoked or canceled, and the number of withdrawals from the advance pricing agreement program; and

(viii) advance pricing agreements finalized or renewed by industry.

(D) General descriptions of—

(i) the nature of the relationships between the related organizations, trades, or businesses covered by advance pricing agreements;

(ii) the covered transactions and the business functions performed and risks assumed by such organizations, trades, or businesses;

(iii) the related organizations, trades, or businesses whose prices or results are tested to determine compliance with transfer pricing methodologies prescribed in advance pricing agreements;

(iv) methodologies used to evaluate tested parties and transactions and the circumstances leading to the use of those methodologies;

(v) critical assumptions made and sources of comparables used;

(vi) comparable selection criteria and the rationale used in determining such criteria;

(vii) the nature of adjustments to comparables or tested parties;

(viii) the nature of any ranges agreed to, including information regarding when no range was used and why, when interquartile ranges were used, and when there was a statistical narrowing of the comparables;

(ix) adjustment mechanisms provided to rectify results that fall outside of the agreed upon advance pricing agreement range;

(x) the various term lengths for advance pricing agreements, including rollback years, and the number of advance pricing agreements with each such term length;

(xi) the nature of documentation required; and

(xii) approaches for sharing of currency or other risks.

(E) Statistics regarding the amount of time taken to complete new and renewal advance pricing agreements.

(F) A detailed description of the Secretary of the Treasury's efforts to ensure compliance with existing advance pricing agreements.

(3) CONFIDENTIALITY.—The reports required by this subsection shall be treated as authorized by the Internal Revenue Code of 1986 for purposes of section 6103 of such Code, but the reports shall not include information—

(A) which would not be permitted to be disclosed under section 6110(c) of such Code if such report were a written determination as defined in section 6110 of such Code, or

(B) which can be associated with, or otherwise identify, directly or indirectly, a particular taxpayer.

(4) FIRST REPORT.—The report for calendar year 1999 shall include prior calendar years after 1990.

(c) REGULATIONS.—The Secretary of the Treasury or the Secretary's delegate shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 6103(b)(2)(C), and the last sentence of section 6110(b)(1), of the Internal Revenue Code of 1986, as added by this section.

SEC. 522. AUTHORITY TO POSTPONE CERTAIN TAX-RELATED DEADLINES BY REASON OF Y2K FAILURES.

(a) IN GENERAL.—In the case of a taxpayer determined by the Secretary of the Treasury (or the Secretary's delegate) to be affected by a Y2K failure, the Secretary may disregard a period of up to 90 days in determining, under the internal revenue laws, in respect of any tax liability (including any interest, penalty, additional amount, or addition to the tax) of such taxpayer—

(1) whether any of the acts described in paragraph (1) of section 7508(a) of the Internal Revenue Code of 1986 (without regard to the exceptions in parentheses in subparagraphs (A) and (B)) were performed within the time prescribed therefor, and

(2) the amount of any credit or refund.

(b) APPLICABILITY OF CERTAIN RULES.—For purposes of this section, rules similar to the rules of subsections (b) and (e) of section 7508 of the Internal Revenue Code of 1986 shall apply.

SEC. 523. INCLUSION OF CERTAIN VACCINES AGAINST STREPTOCOCCUS PNEUMONIAE TO LIST OF TAXABLE VACCINES.

(a) INCLUSION OF VACCINES.—

(1) IN GENERAL.—Section 4132(a)(1) of the Internal Revenue Code of 1986 (defining taxable vaccine) is amended by adding at the end the following new subparagraph:

''(L) Any conjugate vaccine against streptococcus pneumoniae.''.

(2) EFFECTIVE DATE.—

(A) SALES.—The amendment made by this subsection shall apply to vaccine sales after the date of the enactment of this Act, but shall not take effect if subsection (b) does not take effect.

(B) DELIVERIES.—For purposes of subparagraph (A), in the case of sales on or before the date described in such subparagraph for which delivery is made after such date, the delivery date shall be considered the sale date.

(b) VACCINE TAX AND TRUST FUND AMENDMENTS.—

(1) Sections 1503 and 1504 of the Vaccine Injury Compensation Program Modification Act (and the amendments made by such sections) are hereby repealed.

(2) Subparagraph (A) of section 9510(c)(1) of such Code is amended by striking ''August 5, 1997'' and inserting ''December 31, 1999''.

(3) The amendments made by this subsection shall take effect as if included in the provisions of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 to which they relate.

(c) REPORT.—Not later than January 31, 2000, the Comptroller General of the United States shall prepare and submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the operation of the Vaccine Injury Compensation Trust Fund and on the adequacy of such Fund to meet future claims made under the Vaccine Injury Compensation Program.

SEC. 524. DELAY IN EFFECTIVE DATE OF REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.

Paragraph (2) of section 1032(f) of the Taxpayer Relief Act of 1997 is amended by striking ''July 1, 2000'' and inserting ''January 1, 2002''.

SEC. 525. PRODUCTION FLEXIBILITY CONTRACT PAYMENTS.

Any option to accelerate the receipt of any payment under a production flexibility contract which is payable under the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7200 et seq.), as in effect on the date of the enactment of this Act, shall be disregarded in determining the taxable year for which such payment is properly includible in gross income for purposes of the Internal Revenue Code of 1986.

Subtitle C—Revenue Offsets

PART I—GENERAL PROVISIONS

SEC. 531. MODIFICATION OF ESTIMATED TAX SAFE HARBOR.

(a) IN GENERAL.—The table contained in clause (i) of section 6654(d)(1)(C) of the Internal Revenue Code of 1986 (relating to limitation on use of preceding year's tax) is amended by striking the items relating to 1999 and 2000 and inserting the following new items:

''1999 ..... 108.6
2000 ..... 110''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to any installment payment for taxable years beginning after December 31, 1999.

SEC. 532. CLARIFICATION OF TAX TREATMENT OF INCOME AND LOSS ON DERIVATIVES.

(a) IN GENERAL.—Section 1221 of the Internal Revenue Code of 1986 (defining capital assets) is amended—

(1) by striking ''For purposes'' and inserting the following:

''(a) IN GENERAL.—For purposes'',

(2) by striking the period at the end of paragraph (5) and inserting a semicolon, and

(3) by adding at the end the following:

''(6) any commodities derivative financial instrument held by a commodities derivatives dealer, unless—

''(A) it is established to the satisfaction of the Secretary that such instrument has no connection to the activities of such dealer as a dealer, and

''(B) such instrument is clearly identified in such dealer's records as being described in subparagraph (A) before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe);

''(7) any hedging transaction which is clearly identified as such before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe); or

''(8) supplies of a type regularly used or consumed by the taxpayer in the ordinary course of a trade or business of the taxpayer.

''(b) DEFINITIONS AND SPECIAL RULES.—

''(1) COMMODITIES DERIVATIVE FINANCIAL INSTRUMENTS.—For purposes of subsection (a)(6)—

''(A) COMMODITIES DERIVATIVES DEALER.—The term 'commodities derivatives dealer' means a person which regularly offers to enter into, assume, offset, assign, or terminate positions in commodities derivative financial instruments with customers in the ordinary course of a trade or business.

''(B) COMMODITIES DERIVATIVE FINANCIAL INSTRUMENT.—

''(i) IN GENERAL.—The term 'commodities derivative financial instrument' means any contract or financial instrument with respect to commodities (other than a share of stock in a corporation, a beneficial interest in a partnership or trust, a note, bond, debenture, or other evidence of indebtedness, or a section 1256 contract (as defined in section 1256(b)), the value or settlement price of which is calculated by or determined by reference to a specified index.

''(ii) SPECIFIED INDEX.—The term 'specified index' means any one or more or any combination of—

''(I) a fixed rate, price, or amount, or

''(II) a variable rate, price, or amount,

which is based on any current, objectively determinable financial or economic information with respect to commodities which is not within the control of any of the parties to the contract or instrument and is not unique to any of the parties' circumstances.

''(2) HEDGING TRANSACTION.—

''(A) IN GENERAL.—For purposes of this section, the term 'hedging transaction' means any transaction entered into by the taxpayer in the normal course of the taxpayer's trade or business primarily—

''(i) to manage risk of price changes or currency fluctuations with respect to ordinary property which is held or to be held by the taxpayer,

''(ii) to manage risk of interest rate or price changes or currency fluctuations with respect to borrowings made or to be made, or ordinary obligations incurred or to be incurred, by the taxpayer, or

''(iii) to manage such other risks as the Secretary may prescribe in regulations.

''(B) TREATMENT OF NONIDENTIFICATION OR IMPROPER IDENTIFICATION OF HEDGING TRANSACTIONS.—Notwithstanding subsection (a)(7), the Secretary shall prescribe regulations to properly characterize any income, gain, expense, or loss arising from a transaction—

''(i) which is a hedging transaction but which was not identified as such in accordance with subsection (a)(7), or

''(ii) which was so identified but is not a hedging transaction.

''(3) REGULATIONS.—The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (6) and (7) of subsection (a) in the case of transactions involving related parties.''.

(b) MANAGEMENT OF RISK.—

(1) Section 475(c)(3) of such Code is amended by striking ''reduces'' and inserting ''manages''.

(2) Section 871(h)(4)(C)(iv) of such Code is amended by striking ''to reduce'' and inserting ''to manage''.

(3) Clauses (i) and (ii) of section 988(d)(2)(A) of such Code are each amended by striking ''to reduce'' and inserting ''to manage''.

(4) Paragraph (2) of section 1256(e) of such Code is amended to read as follows:

''(2) DEFINITION OF HEDGING TRANSACTION.—For purposes of this subsection, the term 'hedging transaction' means any hedging transaction (as defined in section 1221(b)(2)(A)) if, before the close of the day on which such transaction was entered into (or such earlier time as the Secretary may prescribe by regulations), the taxpayer clearly identifies such transaction as being a hedging transaction.''.

(c) CONFORMING AMENDMENTS.—

(1) Each of the following sections of such Code are amended by striking ''section 1221'' and inserting ''section 1221(a)'':

(A) Section 170(e)(3)(A).
(B) Section 170(e)(4)(B).
(C) Section 367(a)(3)(B)(i).
(D) Section 818(c)(3).
(E) Section 865(i)(1).
(F) Section 1092(a)(3)(B)(ii)(II).
(G) Subparagraphs (C) and (D) of section 1231(b)(1).
(H) Section 1234(a)(3)(A).

(2) Each of the following sections of such Code are amended by striking ''section 1221(1)'' and inserting ''section 1221(a)(1)'':

(A) Section 198(c)(1)(A)(i).
(B) Section 263A(b)(2)(A).
(C) Clauses (i) and (iii) of section 267(f)(3)(B).
(D) Section 341(d)(3).
(E) Section 543(a)(1)(D)(i).

(F) Section 751(d)(1).
(G) Section 775(c).
(H) Section 856(c)(2)(D).
(I) Section 856(c)(3)(C).
(J) Section 856(e)(1).
(K) Section 856(j)(2)(B).
(L) Section 857(b)(4)(B)(i).
(M) Section 857(b)(6)(B)(iii).
(N) Section 864(c)(4)(B)(iii).
(O) Section 864(d)(3)(A).
(P) Section 864(d)(6)(A).
(Q) Section 954(c)(1)(B)(iii).
(R) Section 995(b)(1)(C).
(S) Section 1017(b)(3)(E)(i).
(T) Section 1362(d)(3)(C)(ii).
(U) Section 4662(c)(2)(C).
(V) Section 7704(c)(3).
(W) Section 7704(d)(1)(D).
(X) Section 7704(d)(1)(G).
(Y) Section 7704(d)(5).

(3) Section 818(b)(2) of such Code is amended by striking ''section 1221(2)'' and inserting ''section 1221(a)(2)''.

(4) Section 1397B(e)(2) of such Code is amended by striking ''section 1221(4)'' and inserting ''section 1221(a)(4)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired on or after the date of the enactment of this Act.

SEC. 533. EXPANSION OF REPORTING OF CANCELLATION OF INDEBTEDNESS INCOME.

(a) IN GENERAL.—Paragraph (2) of section 6050P(c) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by inserting after subparagraph (C) the following new subparagraph:

''(D) any organization a significant trade or business of which is the lending of money.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to discharges of indebtedness after December 31, 1999.

SEC. 534. LIMITATION ON CONVERSION OF CHARACTER OF INCOME FROM CONSTRUCTIVE OWNERSHIP TRANSACTIONS.

(a) IN GENERAL.—Part IV of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to special rules for determining capital gains and losses) is amended by inserting after section 1259 the following new section:

''SEC. 1260. GAINS FROM CONSTRUCTIVE OWNERSHIP TRANSACTIONS.

''(a) IN GENERAL.—If the taxpayer has gain from a constructive ownership transaction with respect to any financial asset and such gain would (without regard to this section) be treated as a long-term capital gain—

''(1) such gain shall be treated as ordinary income to the extent that such gain exceeds the net underlying long-term capital gain, and

''(2) to the extent such gain is treated as a long-term capital gain after the application of paragraph (1), the determination of the capital gain rate (or rates) applicable to such gain under section 1(h) shall be determined on the basis of the respective rate (or rates) that would have been applicable to the net underlying long-term capital gain.

''(b) INTEREST CHARGE ON DEFERRAL OF GAIN RECOGNITION.—

''(1) IN GENERAL.—If any gain is treated as ordinary income for any taxable year by reason of subsection (a)(1), the tax imposed by this chapter for such taxable year shall be increased by the amount of interest determined under paragraph (2) with respect to each prior taxable year during any portion of which the constructive ownership transaction was open. Any amount payable under this paragraph shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during such taxable year.

''(2) AMOUNT OF INTEREST.—The amount of interest determined under this paragraph with respect to a prior taxable year is the amount of interest which would have been imposed under section 6601 on the underpayment of tax for such year which would have resulted if the gain (which is treated as ordinary income by reason of subsection (a)(1)) had been included in gross income in the taxable years in which it accrued (determined by treating the income as accruing at a constant rate equal to the applicable Federal rate as in effect on the day the transaction closed). The period during which such interest shall accrue shall end on the due date (without extensions) for the return of tax imposed by this chapter for the taxable year in which such transaction closed.

''(3) APPLICABLE FEDERAL RATE.—For purposes of paragraph (2), the applicable Federal rate is the applicable Federal rate determined under section 1274(d) (compounded semiannually) which would apply to a debt instrument with a term equal to the period the transaction was open.

''(4) NO CREDITS AGAINST INCREASE IN TAX.—Any increase in tax under paragraph (1) shall not be treated as tax imposed by this chapter for purposes of determining—

''(A) the amount of any credit allowable under this chapter, or

''(B) the amount of the tax imposed by section 55.

''(c) FINANCIAL ASSET.—For purposes of this section—

''(1) IN GENERAL.—The term 'financial asset' means—

''(A) any equity interest in any pass-thru entity, and

''(B) to the extent provided in regulations—

''(i) any debt instrument, and

''(ii) any stock in a corporation which is not a pass-thru entity.

''(2) PASS-THRU ENTITY.—For purposes of paragraph (1), the term 'pass-thru entity' means—

''(A) a regulated investment company,

''(B) a real estate investment trust,

''(C) an S corporation,

''(D) a partnership,

''(E) a trust,

''(F) a common trust fund,

''(G) a passive foreign investment company (as defined in section 1297 without regard to subsection (e) thereof),

''(H) a foreign personal holding company,

''(I) a foreign investment company (as defined in section 1246(b)), and

''(J) a REMIC.

''(d) CONSTRUCTIVE OWNERSHIP TRANSACTION.—For purposes of this section—

''(1) IN GENERAL.—The taxpayer shall be treated as having entered into a constructive ownership transaction with respect to any financial asset if the taxpayer—

''(A) holds a long position under a notional principal contract with respect to the financial asset,

''(B) enters into a forward or futures contract to acquire the financial asset,

''(C) is the holder of a call option, and is the grantor of a put option, with respect to the financial asset and such options have substantially equal strike prices and substantially contemporaneous maturity dates, or

''(D) to the extent provided in regulations prescribed by the Secretary, enters into one or more other transactions (or acquires one or more positions) that have substantially the same effect as a transaction described in any of the preceding subparagraphs.

''(2) EXCEPTION FOR POSITIONS WHICH ARE MARKED TO MARKET.—This section shall not apply to any constructive ownership transaction if all of the positions which are part of such transaction are marked to market under any provision of this title or the regulations thereunder.

''(3) LONG POSITION UNDER NOTIONAL PRINCIPAL CONTRACT.—A person shall be treated as holding a long position under a notional principal contract with respect to any financial asset if such person—

''(A) has the right to be paid (or receive credit for) all or substantially all of the investment yield (including appreciation) on such financial asset for a specified period, and

''(B) is obligated to reimburse (or provide credit for) all or substantially all of any decline in the value of such financial asset.

''(4) FORWARD CONTRACT.—The term 'forward contract' means any contract to acquire in the future (or provide or receive credit for the future value of) any financial asset.

''(e) NET UNDERLYING LONG-TERM CAPITAL GAIN.—For purposes of this section, in the case of any constructive ownership transaction with respect to any financial asset, the term 'net underlying long-term capital gain' means the aggregate net capital gain that the taxpayer would have had if—

''(1) the financial asset had been acquired for fair market value on the date such transaction was opened and sold for fair market value on the date such transaction was closed, and

''(2) only gains and losses that would have resulted from the deemed ownership under paragraph (1) were taken into account.

The amount of the net underlying long-term capital gain with respect to any financial asset shall be treated as zero unless the amount thereof is established by clear and convincing evidence.

''(f) SPECIAL RULE WHERE TAXPAYER TAKES DELIVERY.—Except as provided in regulations prescribed by the Secretary, if a constructive ownership transaction is closed by reason of taking delivery, this section shall be applied as if the taxpayer had sold all the contracts, options, or other positions which are part of such transaction for fair market value on the closing date. The amount of gain recognized under the preceding sentence shall not exceed the amount of gain treated as ordinary income under subsection (a). Proper adjustments shall be made in the amount of any gain or loss subsequently realized for gain recognized and treated as ordinary income under this subsection.

''(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

''(1) to permit taxpayers to mark to market constructive ownership transactions in lieu of applying this section, and

''(2) to exclude certain forward contracts which do not convey substantially all of the economic return with respect to a financial asset.''.

(b) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter P of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 1260. Gains from constructive ownership transactions.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions entered into after July 11, 1999.

SEC. 535. TREATMENT OF EXCESS PENSION ASSETS USED FOR RETIREE HEALTH BENEFITS.

(a) EXTENSION.—

(1) IN GENERAL.—Paragraph (5) of section 420(b) of the Internal Revenue Code of 1986 (relating to expiration) is amended by striking ''in any taxable year beginning after December 31, 2000'' and inserting ''made after December 31, 2005''.

(2) CONFORMING AMENDMENTS.—

(A) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking ''January 1, 1995'' and inserting ''the date of the enactment of the Tax Relief Extension Act of 1999''.

(B) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking ''January 1, 1995'' and inserting ''the date of the enactment of the Tax Relief Extension Act of 1999''.

(C) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(13)) is amended—

(i) by striking ''in a taxable year beginning before January 1, 2001'' and inserting ''made before January 1, 2006'', and

(ii) by striking ''January 1, 1995'' and inserting ''the date of the enactment of the Tax Relief Extension Act of 1999''.

(b) APPLICATION OF MINIMUM COST REQUIREMENTS.—

(1) IN GENERAL.—Paragraph (3) of section 420(c) of the Internal Revenue Code of 1986 is amended to read as follows:

''(3) MINIMUM COST REQUIREMENTS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the cost maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer.

''(B) APPLICABLE EMPLOYER COST.—For purposes of this paragraph, the term 'applicable employer cost' means, with respect to any taxable year, the amount determined by dividing—

''(i) the qualified current retiree health liabilities of the employer for such taxable year determined—

''(I) without regard to any reduction under subsection (e)(1)(B), and

''(II) in the case of a taxable year in which there was no qualified transfer, in the same manner as if there had been such a transfer at the end of the taxable year, by

''(ii) the number of individuals to whom coverage for applicable health benefits was provided during such taxable year.

''(C) ELECTION TO COMPUTE COST SEPARATELY.—An employer may elect to have this paragraph applied separately with respect to individuals eligible for benefits under title XVIII of the Social Security Act at any time during the taxable year and with respect to individuals not so eligible.

''(D) COST MAINTENANCE PERIOD.—For purposes of this paragraph, the term 'cost maintenance period' means the period of 5 taxable years beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in two or more overlapping cost maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A) for such taxable year.

''(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to prevent an employer who significantly reduces retiree health coverage during the cost maintenance period from being treated as satisfying the minimum cost requirement of this subsection.''.

(2) CONFORMING AMENDMENTS.—

(A) Clause (iii) of section 420(b)(1)(C) of such Code is amended by striking ''benefits'' and inserting ''cost''.

(B) Subparagraph (D) of section 420(e)(1) of such Code is amended by striking ''and shall not be subject to the minimum benefit requirements of subsection (c)(3)'' and inserting ''or in calculating applicable employer cost under subsection (c)(3)(B)''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to qualified transfers occurring after the date of the enactment of this Act.

(2) TRANSITION RULE.—If the cost maintenance period for any qualified transfer after the date of the enactment of this Act includes any portion of a benefit maintenance period for any qualified transfer on or before such date, the amendments made by subsection (b) shall not apply to such portion of the cost maintenance period (and such portion shall be treated as a benefit maintenance period).

SEC. 536. MODIFICATION OF INSTALLMENT METHOD AND REPEAL OF INSTALLMENT METHOD FOR ACCRUAL METHOD TAXPAYERS.

(a) REPEAL OF INSTALLMENT METHOD FOR ACCRUAL BASIS TAXPAYERS.—

(1) IN GENERAL.—Subsection (a) of section 453 of the Internal Revenue Code of 1986 (relating to installment method) is amended to read as follows:

''(a) USE OF INSTALLMENT METHOD.—

''(1) IN GENERAL.—Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this title under the installment method.

''(2) ACCRUAL METHOD TAXPAYER.—The installment method shall not apply to income from an installment sale if such income would be reported under an accrual method of accounting without regard to this section. The preceding sentence shall not apply to a disposition described in subparagraph (A) or (B) of subsection (l)(2).''.

(2) CONFORMING AMENDMENTS.—Sections 453(d)(1), 453(i)(1), and 453(k) of such Code are each amended by striking ''(a)'' each place it appears and inserting ''(a)(1)''.

(b) MODIFICATION OF PLEDGE RULES.—Paragraph (4) of section 453A(d) of such Code (relating to pledges, etc., of installment obligations) is amended by adding at the end the following: ''A payment shall be treated as directly secured by an interest in an installment obligation to the extent an arrangement allows the taxpayer to satisfy all or a portion of the indebtedness with the installment obligation.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or other dispositions occurring on or after the date of the enactment of this Act.

SEC. 537. DENIAL OF CHARITABLE CONTRIBUTION DEDUCTION FOR TRANSFERS ASSOCIATED WITH SPLIT-DOLLAR INSURANCE ARRANGEMENTS.

(a) IN GENERAL.—Subsection (f) of section 170 of the Internal Revenue Code of 1986 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

''(10) SPLIT-DOLLAR LIFE INSURANCE, ANNUITY, AND ENDOWMENT CONTRACTS.—

''(A) IN GENERAL.—Nothing in this section or in section 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 shall be construed to allow a deduction, and no deduction shall be allowed, for any transfer to or for the use of an organization described in subsection (c) if in connection with such transfer—

''(i) the organization directly or indirectly pays, or has previously paid, any premium on any personal benefit contract with respect to the transferor, or

''(ii) there is an understanding or expectation that any person will directly or indirectly pay any premium on any personal benefit contract with respect to the transferor.

''(B) PERSONAL BENEFIT CONTRACT.—For purposes of subparagraph (A), the term 'personal benefit contract' means, with respect to the transferor, any life insurance, annuity, or endowment contract if any direct or indirect beneficiary under such contract is the transferor, any member of the transferor's family, or any other person (other than an organization described in subsection (c)) designated by the transferor.

''(C) APPLICATION TO CHARITABLE REMAINDER TRUSTS.—In the case of a transfer to a trust referred to in subparagraph (E), references in subparagraphs (A) and (F) to an organization described in subsection (c) shall be treated as a reference to such trust.

''(D) EXCEPTION FOR CERTAIN ANNUITY CONTRACTS.—If, in connection with a transfer to or for the use of an organization described in subsection (c), such organization incurs an obligation to pay a charitable gift annuity (as defined in section 501(m)) and such organization purchases any annuity contract to fund such obligation, persons receiving payments under the charitable gift annuity shall not be treated for purposes of subparagraph (B) as indirect beneficiaries under such contract if—

''(i) such organization possesses all of the incidents of ownership under such contract,

''(ii) such organization is entitled to all the payments under such contract, and

''(iii) the timing and amount of payments under such contract are substantially the same as the timing and amount of payments to each such person under such obligation (as such obligation is in effect at the time of such transfer).

''(E) EXCEPTION FOR CERTAIN CONTRACTS HELD BY CHARITABLE REMAINDER TRUSTS.—A person shall not be treated for purposes of subparagraph (B) as an indirect beneficiary under any life insurance, annuity, or endowment contract held by a charitable remainder annuity trust or a charitable remainder unitrust (as defined in section 664(d)) solely by reason of being entitled to any payment referred to in paragraph (1)(A) or (2)(A) of section 664(d) if—

''(i) such trust possesses all of the incidents of ownership under such contract, and

''(ii) such trust is entitled to all the payments under such contract.

''(F) EXCISE TAX ON PREMIUMS PAID.—

''(i) IN GENERAL.—There is hereby imposed on any organization described in subsection (c) an excise tax equal to the premiums paid by such organization on any life insurance, annuity, or endowment contract if the payment of premiums on such contract is in connection with a transfer for which a deduction is not allowable under subparagraph (A), determined without regard to when such transfer is made.

''(ii) PAYMENTS BY OTHER PERSONS.—For purposes of clause (i), payments made by any other person pursuant to an understanding or expectation referred to in subparagraph (A) shall be treated as made by the organization.

''(iii) REPORTING.—Any organization on which tax is imposed by clause (i) with respect to any premium shall file an annual return which includes—

''(I) the amount of such premiums paid during the year and the name and TIN of each beneficiary under the contract to which the premium relates, and

''(II) such other information as the Secretary may require.

The penalties applicable to returns required under section 6033 shall apply to returns required under this clause. Returns required under this clause shall be furnished at such time and in such manner as the Secretary shall by forms or regulations require.

''(iv) CERTAIN RULES TO APPLY.—The tax imposed by this subparagraph shall be treated as imposed by chapter 42 for purposes of this title other than subchapter B of chapter 42.

''(G) SPECIAL RULE WHERE STATE REQUIRES SPECIFICATION OF CHARITABLE GIFT ANNUITANT IN CONTRACT.—In the case of an obligation to pay a charitable gift annuity referred to in subparagraph (D) which is entered into under the laws of a State which requires, in order for the charitable gift annuity to be exempt from insurance regulation by such State, that each beneficiary under the charitable gift annuity be named as a beneficiary under an annuity contract issued by an insurance company authorized to transact business in such State, the requirements of clauses (i) and (ii) of subparagraph (D) shall be treated as met if—

''(i) such State law requirement was in effect on February 8, 1999,

''(ii) each such beneficiary under the charitable gift annuity is a bona fide resident of such State at the time the obligation to pay a charitable gift annuity is entered into, and

''(iii) the only persons entitled to payments under such contract are persons entitled to payments as beneficiaries under such obligation on the date such obligation is entered into.

''(H) MEMBER OF FAMILY.—For purposes of this paragraph, an individual's family consists

of the individual's grandparents, the grandparents of such individual's spouse, the lineal descendants of such grandparents, and any spouse of such a lineal descendant.

''(I) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations to prevent the avoidance of such purposes.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendment made by this section shall apply to transfers made after February 8, 1999.

(2) EXCISE TAX.—Except as provided in paragraph (3) of this subsection, section 170(f)(10)(F) of the Internal Revenue Code of 1986 (as added by this section) shall apply to premiums paid after the date of the enactment of this Act.

(3) REPORTING.—Clause (iii) of such section 170(f)(10)(F) shall apply to premiums paid after February 8, 1999 (determined as if the tax imposed by such section applies to premiums paid after such date).

SEC. 538. DISTRIBUTIONS BY A PARTNERSHIP TO A CORPORATE PARTNER OF STOCK IN ANOTHER CORPORATION.

(a) IN GENERAL.—Section 732 of the Internal Revenue Code of 1986 (relating to basis of distributed property other than money) is amended by adding at the end the following new subsection:

''(f) CORRESPONDING ADJUSTMENT TO BASIS OF ASSETS OF A DISTRIBUTED CORPORATION CONTROLLED BY A CORPORATE PARTNER.—

''(1) IN GENERAL.—If—

''(A) a corporation (hereafter in this subsection referred to as the 'corporate partner') receives a distribution from a partnership of stock in another corporation (hereafter in this subsection referred to as the 'distributed corporation'),

''(B) the corporate partner has control of the distributed corporation immediately after the distribution or at any time thereafter, and

''(C) the partnership's adjusted basis in such stock immediately before the distribution exceeded the corporate partner's adjusted basis in such stock immediately after the distribution,

then an amount equal to such excess shall be applied to reduce (in accordance with subsection (c)) the basis of property held by the distributed corporation at such time (or, if the corporate partner does not control the distributed corporation at such time, at the time the corporate partner first has such control).

''(2) EXCEPTION FOR CERTAIN DISTRIBUTIONS BEFORE CONTROL ACQUIRED.—Paragraph (1) shall not apply to any distribution of stock in the distributed corporation if—

''(A) the corporate partner does not have control of such corporation immediately after such distribution, and

''(B) the corporate partner establishes to the satisfaction of the Secretary that such distribution was not part of a plan or arrangement to acquire control of the distributed corporation.

''(3) LIMITATIONS ON BASIS REDUCTION.—

''(A) IN GENERAL.—The amount of the reduction under paragraph (1) shall not exceed the amount by which the sum of the aggregate adjusted bases of the property and the amount of money of the distributed corporation exceeds the corporate partner's adjusted basis in the stock of the distributed corporation.

''(B) REDUCTION NOT TO EXCEED ADJUSTED BASIS OF PROPERTY.—No reduction under paragraph (1) in the basis of any property shall exceed the adjusted basis of such property (determined without regard to such reduction).

''(4) GAIN RECOGNITION WHERE REDUCTION LIMITED.—If the amount of any reduction under paragraph (1) (determined after the application of paragraph (3)(A)) exceeds the aggregate adjusted bases of the property of the distributed corporation—

''(A) such excess shall be recognized by the corporate partner as long-term capital gain, and

''(B) the corporate partner's adjusted basis in the stock of the distributed corporation shall be increased by such excess.

''(5) CONTROL.—For purposes of this subsection, the term 'control' means ownership of stock meeting the requirements of section 1504(a)(2).

''(6) INDIRECT DISTRIBUTIONS.—For purposes of paragraph (1), if a corporation acquires (other than in a distribution from a partnership) stock the basis of which is determined (by reason of being distributed from a partnership) in whole or in part by reference to subsection (a)(2) or (b), the corporation shall be treated as receiving a distribution of such stock from a partnership.

''(7) SPECIAL RULE FOR STOCK IN CONTROLLED CORPORATION.—If the property held by a distributed corporation is stock in a corporation which the distributed corporation controls, this subsection shall be applied to reduce the basis of the property of such controlled corporation. This subsection shall be reapplied to any property of any controlled corporation which is stock in a corporation which it controls.

''(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations to avoid double counting and to prevent the abuse of such purposes.''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply to distributions made after July 14, 1999.

(2) PARTNERSHIPS IN EXISTENCE ON JULY 14, 1999.—In the case of a corporation which is a partner in a partnership as of July 14, 1999, the amendment made by this section shall apply to any distribution made (or treated as made) to such partner from such partnership after June 30, 2001, except that this paragraph shall not apply to any distribution after the date of the enactment of this Act unless the partner makes an election to have this paragraph apply to such distribution on the partner's return of Federal income tax for the taxable year in which such distribution occurs.

PART II—PROVISIONS RELATING TO REAL ESTATE INVESTMENT TRUSTS

Subpart A—Treatment of Income and Services Provided by Taxable REIT Subsidiaries

SEC. 541. MODIFICATIONS TO ASSET DIVERSIFICATION TEST.

(a) IN GENERAL.—Subparagraph (B) of section 856(c)(4) of the Internal Revenue Code of 1986 is amended to read as follows:

''(B)(i) not more than 25 percent of the value of its total assets is represented by securities (other than those includible under subparagraph (A)),

''(ii) not more than 20 percent of the value of its total assets is represented by securities of 1 or more taxable REIT subsidiaries, and

''(iii) except with respect to a taxable REIT subsidiary and securities includible under subparagraph (A)—

''(I) not more than 5 percent of the value of its total assets is represented by securities of any one issuer,

''(II) the trust does not hold securities possessing more than 10 percent of the total voting power of the outstanding securities of any one issuer, and

''(III) the trust does not hold securities having a value of more than 10 percent of the total value of the outstanding securities of any one issuer.''.

(b) EXCEPTION FOR STRAIGHT DEBT SECURITIES.—Subsection (c) of section 856 of such Code is amended by adding at the end the following new paragraph:

''(7) STRAIGHT DEBT SAFE HARBOR IN APPLYING PARAGRAPH (4).—Securities of an issuer which are straight debt (as defined in section 1361(c)(5) without regard to subparagraph (B)(iii) thereof) shall not be taken into account in applying paragraph (4)(B)(ii)(III) if—

''(A) the issuer is an individual, or

''(B) the only securities of such issuer which are held by the trust or a taxable REIT subsidiary of the trust are straight debt (as so defined), or

''(C) the issuer is a partnership and the trust holds at least a 20 percent profits interest in the partnership.''.

SEC. 542. TREATMENT OF INCOME AND SERVICES PROVIDED BY TAXABLE REIT SUBSIDIARIES.

(a) INCOME FROM TAXABLE REIT SUBSIDIARIES NOT TREATED AS IMPERMISSIBLE TENANT SERVICE INCOME.—Clause (i) of section 856(d)(7)(C) of the Internal Revenue Code of 1986 (relating to exceptions to impermissible tenant service income) is amended by inserting ''or through a taxable REIT subsidiary of such trust'' after ''income''.

(b) CERTAIN INCOME FROM TAXABLE REIT SUBSIDIARIES NOT EXCLUDED FROM RENTS FROM REAL PROPERTY.—

(1) IN GENERAL.—Subsection (d) of section 856 of such Code (relating to rents from real property defined) is amended by adding at the end the following new paragraphs:

''(8) SPECIAL RULE FOR TAXABLE REIT SUBSIDIARIES.—For purposes of this subsection, amounts paid to a real estate investment trust by a taxable REIT subsidiary of such trust shall not be excluded from rents from real property by reason of paragraph (2)(B) if the requirements of either of the following subparagraphs are met:

''(A) LIMITED RENTAL EXCEPTION.—The requirements of this subparagraph are met with respect to any property if at least 90 percent of the leased space of the property is rented to persons other than taxable REIT subsidiaries of such trust and other than persons described in section 856(d)(2)(B). The preceding sentence shall apply only to the extent that the amounts paid to the trust as rents from real property (as defined in paragraph (1) without regard to paragraph (2)(B)) from such property are substantially comparable to such rents made by the other tenants of the trust's property for comparable space.

''(B) EXCEPTION FOR CERTAIN LODGING FACILITIES.—The requirements of this subparagraph are met with respect to an interest in real property which is a qualified lodging facility leased by the trust to a taxable REIT subsidiary of the trust if the property is operated on behalf of such subsidiary by a person who is an eligible independent contractor.

''(9) ELIGIBLE INDEPENDENT CONTRACTOR.—For purposes of paragraph (8)(B)—

''(A) IN GENERAL.—The term 'eligible independent contractor' means, with respect to any qualified lodging facility, any independent contractor if, at the time such contractor enters into a management agreement or other similar service contract with the taxable REIT subsidiary to operate the facility, such contractor (or any related person) is actively engaged in the trade or business of operating qualified lodging facilities for any person who is not a related person with respect to the real estate investment trust or the taxable REIT subsidiary.

''(B) SPECIAL RULES.—Solely for purposes of this paragraph and paragraph (8)(B), a person shall not fail to be treated as an independent contractor with respect to any qualified lodging facility by reason of any of the following:

''(i) The taxable REIT subsidiary bears the expenses for the operation of the facility pursuant to the management agreement or other similar service contract.

''(ii) The taxable REIT subsidiary receives the revenues from the operation of such facility, net of expenses for such operation and fees payable to the operator pursuant to such agreement or contract.

''(iii) The real estate investment trust receives income from such person with respect to another property that is attributable to a lease of such other property to such person that was in effect as of the later of—

''(I) January 1, 1999, or

''(II) the earliest date that any taxable REIT subsidiary of such trust entered into a management agreement or other similar service contract with such person with respect to such qualified lodging facility.

''(C) RENEWALS, ETC., OF EXISTING LEASES.—For purposes of subparagraph (B)(iii)—

''(i) a lease shall be treated as in effect on January 1, 1999, without regard to its renewal after such date, so long as such renewal is pursuant to the terms of such lease as in effect on whichever of the dates under subparagraph (B)(iii) is the latest, and

''(ii) a lease of a property entered into after whichever of the dates under subparagraph (B)(iii) is the latest shall be treated as in effect on such date if—

''(I) on such date, a lease of such property from the trust was in effect, and

''(II) under the terms of the new lease, such trust receives a substantially similar or lesser benefit in comparison to the lease referred to in subclause (I).

''(D) QUALIFIED LODGING FACILITY.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'qualified lodging facility' means any lodging facility unless wagering activities are conducted at or in connection with such facility by any person who is engaged in the business of accepting wagers and who is legally authorized to engage in such business at or in connection with such facility.

''(ii) LODGING FACILITY.—The term 'lodging facility' means a hotel, motel, or other establishment more than one-half of the dwelling units in which are used on a transient basis.

''(iii) CUSTOMARY AMENITIES AND FACILITIES.—The term 'lodging facility' includes customary amenities and facilities operated as part of, or associated with, the lodging facility so long as such amenities and facilities are customary for other properties of a comparable size and class owned by other owners unrelated to such real estate investment trust.

''(E) OPERATE INCLUDES MANAGE.—References in this paragraph to operating a property shall be treated as including a reference to managing the property.

''(F) RELATED PERSON.—Persons shall be treated as related to each other if such persons are treated as a single employer under subsection (a) or (b) of section 52.''.

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 856(d)(2) of such Code is amended by inserting ''except as provided in paragraph (8),'' after ''(B)''.

(3) DETERMINING RENTS FROM REAL PROPERTY.—

(A)(i) Paragraph (1) of section 856(d) of such Code is amended by striking ''adjusted bases'' each place it occurs and inserting ''fair market values''.

(ii) The amendment made by this subparagraph shall apply to taxable years beginning after December 31, 2000.

(B)(i) Clause (i) of section 856(d)(2)(B) of such Code is amended by striking ''number'' and inserting ''value''.

(ii) The amendment made by this subparagraph shall apply to amounts received or accrued in taxable years beginning after December 31, 2000, except for amounts paid pursuant to leases in effect on July 12, 1999, or pursuant to a binding contract in effect on such date and at all times thereafter.

SEC. 543. TAXABLE REIT SUBSIDIARY.

(a) IN GENERAL.—Section 856 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(l) TAXABLE REIT SUBSIDIARY.—For purposes of this part—

''(1) IN GENERAL.—The term 'taxable REIT subsidiary' means, with respect to a real estate investment trust, a corporation (other than a real estate investment trust) if—

''(A) such trust directly or indirectly owns stock in such corporation, and

''(B) such trust and such corporation jointly elect that such corporation shall be treated as a taxable REIT subsidiary of such trust for purposes of this part.

Such an election, once made, shall be irrevocable unless both such trust and corporation consent to its revocation. Such election, and any revocation thereof, may be made without the consent of the Secretary.

''(2) 35 PERCENT OWNERSHIP IN ANOTHER TAXABLE REIT SUBSIDIARY.—The term 'taxable REIT subsidiary' includes, with respect to any real estate investment trust, any corporation (other than a real estate investment trust) with respect to which a taxable REIT subsidiary of such trust owns directly or indirectly—

''(A) securities possessing more than 35 percent of the total voting power of the outstanding securities of such corporation, or

''(B) securities having a value of more than 35 percent of the total value of the outstanding securities of such corporation.

The preceding sentence shall not apply to a qualified REIT subsidiary (as defined in subsection (i)(2)). The rule of section 856(c)(7) shall apply for purposes of subparagraph (B).

''(3) EXCEPTIONS.—The term 'taxable REIT subsidiary' shall not include—

''(A) any corporation which directly or indirectly operates or manages a lodging facility or a health care facility, and

''(B) any corporation which directly or indirectly provides to any other person (under a franchise, license, or otherwise) rights to any brand name under which any lodging facility or health care facility is operated.

Subparagraph (B) shall not apply to rights provided to an eligible independent contractor to operate or manage a lodging facility if such rights are held by such corporation as a franchisee, licensee, or in a similar capacity and such lodging facility is either owned by such corporation or is leased to such corporation from the real estate investment trust.

''(4) DEFINITIONS.—For purposes of paragraph (3)—

''(A) LODGING FACILITY.—The term 'lodging facility' has the meaning given to such term by paragraph (9)(D)(ii).

''(B) HEALTH CARE FACILITY.—The term 'health care facility' has the meaning given to such term by subsection (e)(6)(D)(ii).''.

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 856(i) of such Code is amended by adding at the end the following new sentence: ''Such term shall not include a taxable REIT subsidiary.''.

SEC. 544. LIMITATION ON EARNINGS STRIPPING.

Paragraph (3) of section 163(j) of the Internal Revenue Code of 1986 (relating to limitation on deduction for interest on certain indebtedness) is amended by striking ''and'' at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting '', and'', and by adding at the end the following new subparagraph:

''(C) any interest paid or accrued (directly or indirectly) by a taxable REIT subsidiary (as defined in section 856(l)) of a real estate investment trust to such trust.''.

SEC. 545. 100 PERCENT TAX ON IMPROPERLY ALLOCATED AMOUNTS.

(a) IN GENERAL.—Subsection (b) of section 857 of the Internal Revenue Code of 1986 (relating to method of taxation of real estate investment trusts and holders of shares or certificates of beneficial interest) is amended by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively, and by inserting after paragraph (6) the following new paragraph:

''(7) INCOME FROM REDETERMINED RENTS, REDETERMINED DEDUCTIONS, AND EXCESS INTEREST.—

''(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year of the real estate investment trust a tax equal to 100 percent of redetermined rents, redetermined deductions, and excess interest.

''(B) REDETERMINED RENTS.—

''(i) IN GENERAL.—The term 'redetermined rents' means rents from real property (as defined in subsection 856(d)) the amount of which would (but for subparagraph (E)) be reduced on distribution, apportionment, or allocation under section 482 to clearly reflect income as a result of services furnished or rendered by a taxable REIT subsidiary of the real estate investment trust to a tenant of such trust.

''(ii) EXCEPTION FOR CERTAIN SERVICES.—Clause (i) shall not apply to amounts received directly or indirectly by a real estate investment trust for services described in paragraph (1)(B) or (7)(C)(i) of section 856(d).

''(iii) EXCEPTION FOR DE MINIMIS AMOUNTS.—Clause (i) shall not apply to amounts described in section 856(d)(7)(A) with respect to a property to the extent such amounts do not exceed the one percent threshold described in section 856(d)(7)(B) with respect to such property.

''(iv) EXCEPTION FOR COMPARABLY PRICED SERVICES.—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if—

''(I) such subsidiary renders a significant amount of similar services to persons other than such trust and tenants of such trust who are unrelated (within the meaning of section 856(d)(8)(F)) to such subsidiary, trust, and tenants, but

''(II) only to the extent the charge for such service so rendered is substantially comparable to the charge for the similar services rendered to persons referred to in subclause (I).

''(v) EXCEPTION FOR CERTAIN SEPARATELY CHARGED SERVICES.—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if—

''(I) the rents paid to the trust by tenants (leasing at least 25 percent of the net leasable space in the trust's property) who are not receiving such service from such subsidiary are substantially comparable to the rents paid by tenants leasing comparable space who are receiving such service from such subsidiary, and

''(II) the charge for such service from such subsidiary is separately stated.

''(vi) EXCEPTION FOR CERTAIN SERVICES BASED ON SUBSIDIARY'S INCOME FROM THE SERVICES.—Clause (i) shall not apply to any service rendered by a taxable REIT subsidiary of a real estate investment trust to a tenant of such trust if the gross income of such subsidiary from such service is not less than 150 percent of such subsidiary's direct cost in furnishing or rendering the service.

''(vii) EXCEPTIONS GRANTED BY SECRETARY.—The Secretary may waive the tax otherwise imposed by subparagraph (A) if the trust establishes to the satisfaction of the Secretary that rents charged to tenants were established on an arms' length basis even though a taxable REIT subsidiary of the trust provided services to such tenants.

''(C) REDETERMINED DEDUCTIONS.—The term 'redetermined deductions' means deductions (other than redetermined rents) of a taxable REIT subsidiary of a real estate investment trust if the amount of such deductions would (but for subparagraph (E)) be decreased on distribution, apportionment, or allocation under section 482 to clearly reflect income as between such subsidiary and such trust.

''(D) EXCESS INTEREST.—The term 'excess interest' means any deductions for interest payments by a taxable REIT subsidiary of a real estate investment trust to such trust to the extent that the interest payments are in excess of a rate that is commercially reasonable.

''(E) COORDINATION WITH SECTION 482.—The imposition of tax under subparagraph (A) shall be in lieu of any distribution, apportionment, or allocation under section 482.

''(F) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes

of this paragraph. Until the Secretary prescribes such regulations, real estate investment trusts and their taxable REIT subsidiaries may base their allocations on any reasonable method.''.

(b) AMOUNT SUBJECT TO TAX NOT REQUIRED TO BE DISTRIBUTED.—Subparagraph (E) of section 857(b)(2) of such Code (relating to real estate investment trust taxable income) is amended by striking ''paragraph (5)'' and inserting ''paragraphs (5) and (7)''.

SEC. 546. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this subpart shall apply to taxable years beginning after December 31, 2000.

(b) TRANSITIONAL RULES RELATED TO SECTION 541.—

(1) EXISTING ARRANGEMENTS.—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendment made by section 541 shall not apply to a real estate investment trust with respect to—

(i) securities of a corporation held directly or indirectly by such trust on July 12, 1999,

(ii) securities of a corporation held by an entity on July 12, 1999, if such trust acquires control of such entity pursuant to a written binding contract in effect on such date and at all times thereafter before such acquisition,

(iii) securities received by such trust (or a successor) in exchange for, or with respect to, securities described in clause (i) or (ii) in a transaction in which gain or loss is not recognized, and

(iv) securities acquired directly or indirectly by such trust as part of a reorganization (as defined in section 368(a)(1) of the Internal Revenue Code of 1986) with respect to such trust if such securities are described in clause (i), (ii), or (iii) with respect to any other real estate investment trust.

(B) NEW TRADE OR BUSINESS OR SUBSTANTIAL NEW ASSETS.—Subparagraph (A) shall cease to apply to securities of a corporation as of the first day after July 12, 1999, on which such corporation engages in a substantial new line of business, or acquires any substantial asset, other than—

(i) pursuant to a binding contract in effect on such date and at all times thereafter before the acquisition of such asset,

(ii) in a transaction in which gain or loss is not recognized by reason of section 1031 or 1033 of the Internal Revenue Code of 1986, or

(iii) in a reorganization (as so defined) with another corporation the securities of which are described in paragraph (1)(A) of this subsection.

(C) LIMITATION ON TRANSITION RULES.—Subparagraph (A) shall cease to apply to securities of a corporation held, acquired, or received, directly or indirectly, by a real estate investment trust as of the first day after July 12, 1999, on which such trust acquires any additional securities of such corporation other than—

(i) pursuant to a binding contract in effect on July 12, 1999, and at all times thereafter, or

(ii) in a reorganization (as so defined) with another corporation the securities of which are described in paragraph (1)(A) of this subsection.

(2) TAX-FREE CONVERSION.—If—

(A) at the time of an election for a corporation to become a taxable REIT subsidiary, the amendment made by section 541 does not apply to such corporation by reason of paragraph (1), and

(B) such election first takes effect before January 1, 2004,

such election shall be treated as a reorganization qualifying under section 368(a)(1)(A) of such Code.

SEC. 547. STUDY RELATING TO TAXABLE REIT SUBSIDIARIES.

The Secretary of the Treasury shall conduct a study to determine how many taxable REIT subsidiaries are in existence and the aggregate amount of taxes paid by such subsidiaries. The Secretary shall submit a report to the Congress describing the results of such study.

Subpart B—Health Care REITs

SEC. 551. HEALTH CARE REITS.

(a) SPECIAL FORECLOSURE RULE FOR HEALTH CARE PROPERTIES.—Subsection (e) of section 856 of the Internal Revenue Code of 1986 (relating to special rules for foreclosure property) is amended by adding at the end the following new paragraph:

''(6) SPECIAL RULE FOR QUALIFIED HEALTH CARE PROPERTIES.—For purposes of this subsection—

''(A) ACQUISITION AT EXPIRATION OF LEASE.—The term 'foreclosure property' shall include any qualified health care property acquired by a real estate investment trust as the result of the termination of a lease of such property (other than a termination by reason of a default, or the imminence of a default, on the lease).

''(B) GRACE PERIOD.—In the case of a qualified health care property which is foreclosure property solely by reason of subparagraph (A), in lieu of applying paragraphs (2) and (3)—

''(i) the qualified health care property shall cease to be foreclosure property as of the close of the second taxable year after the taxable year in which such trust acquired such property, and

''(ii) if the real estate investment trust establishes to the satisfaction of the Secretary that an extension of the grace period in clause (i) is necessary to the orderly leasing or liquidation of the trust's interest in such qualified health care property, the Secretary may grant one or more extensions of the grace period for such qualified health care property.

Any such extension shall not extend the grace period beyond the close of the 6th year after the taxable year in which such trust acquired such qualified health care property.

''(C) INCOME FROM INDEPENDENT CONTRACTORS.—For purposes of applying paragraph (4)(C) with respect to qualified health care property which is foreclosure property by reason of subparagraph (A) or paragraph (1), income derived or received by the trust from an independent contractor shall be disregarded to the extent such income is attributable to—

''(i) any lease of property in effect on the date the real estate investment trust acquired the qualified health care property (without regard to its renewal after such date so long as such renewal is pursuant to the terms of such lease as in effect on such date), or

''(ii) any lease of property entered into after such date if—

''(I) on such date, a lease of such property from the trust was in effect, and

''(II) under the terms of the new lease, such trust receives a substantially similar or lesser benefit in comparison to the lease referred to in subclause (I).

''(D) QUALIFIED HEALTH CARE PROPERTY.—

''(i) IN GENERAL.—The term 'qualified health care property' means any real property (including interests therein), and any personal property incident to such real property, which—

''(I) is a health care facility, or

''(II) is necessary or incidental to the use of a health care facility.

''(ii) HEALTH CARE FACILITY.—For purposes of clause (i), the term 'health care facility' means a hospital, nursing facility, assisted living facility, congregate care facility, qualified continuing care facility (as defined in section 7872(g)(4)), or other licensed facility which extends medical or nursing or ancillary services to patients and which, immediately before the termination, expiration, default, or breach of the lease of or mortgage secured by such facility, was operated by a provider of such services which was eligible for participation in the medicare program under title XVIII of the Social Security Act with respect to such facility.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

Subpart C—Conformity With Regulated Investment Company Rules

SEC. 556. CONFORMITY WITH REGULATED INVESTMENT COMPANY RULES.

(a) DISTRIBUTION REQUIREMENT.—Clauses (i) and (ii) of section 857(a)(1)(A) of the Internal Revenue Code of 1986 (relating to requirements applicable to real estate investment trusts) are each amended by striking ''95 percent (90 percent for taxable years beginning before January 1, 1980)'' and inserting ''90 percent''.

(b) IMPOSITION OF TAX.—Clause (i) of section 857(b)(5)(A) of such Code (relating to imposition of tax in case of failure to meet certain requirements) is amended by striking ''95 percent (90 percent in the case of taxable years beginning before January 1, 1980)'' and inserting ''90 percent''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2000.

Subpart D—Clarification of Exception From Impermissible Tenant Service Income

SEC. 561. CLARIFICATION OF EXCEPTION FOR INDEPENDENT OPERATORS.

(a) IN GENERAL.—Paragraph (3) of section 856(d) of the Internal Revenue Code of 1986 (relating to independent contractor defined) is amended by adding at the end the following flush sentence:

''In the event that any class of stock of either the real estate investment trust or such person is regularly traded on an established securities market, only persons who own, directly or indirectly, more than 5 percent of such class of stock shall be taken into account as owning any of the stock of such class for purposes of applying the 35 percent limitation set forth in subparagraph (B) (but all of the outstanding stock of such class shall be considered outstanding in order to compute the denominator for purpose of determining the applicable percentage of ownership).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

Subpart E—Modification of Earnings and Profits Rules

SEC. 566. MODIFICATION OF EARNINGS AND PROFITS RULES.

(a) RULES FOR DETERMINING WHETHER REGULATED INVESTMENT COMPANY HAS EARNINGS AND PROFITS FROM NON-RIC YEAR.—

(1) IN GENERAL.—Subsection (c) of section 852 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

''(3) DISTRIBUTIONS TO MEET REQUIREMENTS OF SUBSECTION (a)(2)(B).—Any distribution which is made in order to comply with the requirements of subsection (a)(2)(B)—

''(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from earnings and profits which, but for the distribution, would result in a failure to meet such requirements (and allocated to such earnings on a first-in, first-out basis), and

''(B) to the extent treated under subparagraph (A) as made from accumulated earnings and profits, shall not be treated as a distribution for purposes of subsection (b)(2)(D) and section 855.''.

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 857(d)(3) of such Code is amended to read as follows:

''(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from earnings and profits which, but for the distribution, would result in a failure to meet such requirements (and allocated to such earnings on a first-in, first-out basis), and''.

(b) CLARIFICATION OF APPLICATION OF REIT SPILLOVER DIVIDEND RULES TO DISTRIBUTIONS TO MEET QUALIFICATION REQUIREMENT.—Subparagraph (B) of section 857(d)(3) of such Code is amended by inserting before the period ''and section 858''.

(c) APPLICATION OF DEFICIENCY DIVIDEND PROCEDURES.—Paragraph (1) of section 852(e) of such Code is amended by adding at the end the following new sentence: ''If the determination under subparagraph (A) is solely as a result of the failure to meet the requirements of subsection (a)(2), the preceding sentence shall also apply for purposes of applying subsection (a)(2) to the non-RIC year and the amount referred to in paragraph (2)(A)(i) shall be the portion of the accumulated earnings and profits which resulted in such failure.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2000.

Subpart F—Modification of Estimated Tax Rules

SEC. 571. MODIFICATION OF ESTIMATED TAX RULES FOR CLOSELY HELD REAL ESTATE INVESTMENT TRUSTS.

(a) IN GENERAL.—Subsection (e) of section 6655 of the Internal Revenue Code of 1986 (relating to estimated tax by corporations) is amended by adding at the end the following new paragraph:

''(5) TREATMENT OF CERTAIN REIT DIVIDENDS.—

''(A) IN GENERAL.—Any dividend received from a closely held real estate investment trust by any person which owns (after application of subsections (d)(5) and (l)(3)(B) of section 856) 10 percent or more (by vote or value) of the stock or beneficial interests in the trust shall be taken into account in computing annualized income installments under paragraph (2) in a manner similar to the manner under which partnership income inclusions are taken into account.

''(B) CLOSELY HELD REIT.—For purposes of subparagraph (A), the term 'closely held real estate investment trust' means a real estate investment trust with respect to which 5 or fewer persons own (after application of subsections (d)(5) and (l)(3)(B) of section 856) 50 percent or more (by vote or value) of the stock or beneficial interests in the trust.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to estimated tax payments due on or after December 15, 1999.

And the Senate agree to the same.

BILL ARCHER,
TOM BLILEY,
DICK ARMEY,
Managers on the Part of the House.

W.V. ROTH, Jr.,
TRENT LOTT,
Managers on the Part of the Senate.

JOINT EXPLANATION STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1180) to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

THE TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999

EXPLANATION OF THE CONFERENCE AGREEMENT

Short Title

Present law

No provision.

House bill

The ''Ticket to Work and Work Incentives Improvement Act of 1999''

Senate amendment

The ''Work Incentives Improvement Act of 1999''

Conference agreement

The Senate recedes to the House.

Long Title

Present law

No provision.

House bill

To amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Findings and Purposes

Present law

No provision.

House bill

No provision.

Senate amendment

Makes a number of findings related to the importance of health care for especially individuals with disabilities, the difficulties they often experience in obtaining proper health care coverage under current program rules, the resulting limited departures from benefit rolls due to recipients' fears of losing coverage, and the potential program savings from providing them better access to coverage if they return to work.

The Senate amendment describes as its purposes to provide individuals with disabilities: (1) health care and employment preparation and placement services to reduce their dependency on cash benefits; (2) Medicaid coverage (through incentives to States to allow them to purchase it) needed to maintain employment; (3) the option of maintaining Medicare coverage while working; and (4) return to work tickets allowing them access to services needed to obtain and retain employment and reduce dependence on cash benefits.

Conference agreement

The House recedes to the Senate with the modification that additional findings are added that address employment opportunities and financial disincentives.

Title I. Ticket to Work and Self-Sufficiency and Related Provisions

Establishment of the Ticket to Work and Self-Sufficiency Program

1. Ticket System

Present law

The Commissioner is required to promptly refer individuals applying for Social Security disability insurance (SSDI) or Supplemental Security Income (SSI) benefits for necessary vocational rehabilitation (VR) services to State vocational rehabilitation (VR) agencies. State VR agencies are established pursuant to Title I of the Rehabilitation Act of 1973, as amended. A State VR agency is reimbursed for the costs of VR services to SSDI and SSI beneficiaries with a single payment after the beneficiary performs ''substantial gainful activity'' (i.e., had earnings in excess of $700 per month) for a continuous period of at least nine months. The Social Security Administration (SSA) has also established an ''alternate participant program'' in regulation where private or other public agencies are eligible to receive reimbursement from SSA for providing VR and related services to SSDI and SSI beneficiaries. To participate in the alternate participant program, a beneficiary must first be referred to, and declined by, a State VR agency. Such private and public agencies are reimbursed according to the same procedures as State VR agencies.

House bill

The House bill creates a Ticket to Work and Self-Sufficiency program. Under the program, the Commissioner of Social Security is authorized to provide SSDI and disabled SSI beneficiaries with a ''ticket'' which they may use to obtain employment services, VR services, and other support services (e.g., assistive technology) from an employment network (that is, provider of services) of their choice to enable them to enter the workforce.

Employment networks may include both State VR agencies and private and other public providers. Employment networks would be prohibited from seeking additional compensation from beneficiaries. The bill provides State VR agencies with the option of participating in the program as an employment network or remaining in the current law reimbursement system, including the option to elect either payment method on a case-by-case basis. Services provided by State VR agencies participating in the program would be governed by plans for VR services approved under Title I of the Rehabilitation Act. The Commissioner would issue regulations regarding the relationship between State VR agencies and other employment networks. It is intended that the agreements would be broad-based, rather than case-by-case agreements. The Commissioner is also required to issue regulations to address other implementation issues, including distribution of tickets to beneficiaries.

The bill requires the program to be phased in at sites selected by the Commissioner beginning no later than 1 year after enactment. The program would be fully implemented as soon as practicable, but not later than 3 years after the program begins.

Senate amendment

Similar provision, except adds a section on special requirements applicable to cross-referral of ticket holders to certain State agencies.

Conference agreement

The Senate recedes to the House.

2. Program Managers

Present law

No provision. (See description of present law under ''1. Ticket System'' above.)

House bill

The Commissioner is required to contract with ''program managers,'' i.e., one or more organizations in the private or public sector with expertise and experience in the field of vocational rehabilitation or employment services through a competitive bidding process, to assist the Social Security Administration to administer the program. Agreements between SSA and program managers shall include performance standards, including measures of access of beneficiaries to

services. Program managers would be precluded from providing services in their own service area.

Program managers would recruit and recommend employment networks to the Commissioner, ensure adequate availability of services to beneficiaries and provide assurances to SSA that employment networks are complying with terms of their agreement. In addition, program managers would provide for changes in employment networks by beneficiaries.

Senate amendment

Similar provision, except the Senate amendment places an additional restriction on changes in employment networks by specifying that ticket holders may elect such changes only ''for good cause, as determined by the Commissioner.'' In addition, the Senate amendment does not specify that when changes in employment networks occur the program manager is to (1) reassign the ticket based on the choice of the beneficiary and (2) make a determination regarding the allocation of payments to each employment network.

Conference agreement

The Senate recedes to the House.

3. Employment Networks

Present law

No provision. (See description of present law under ''1. Ticket System'' above.)

House bill

Employment networks consist of a single provider (public or private) or an association of providers which would assume responsibility for the coordination and delivery of services. Employment networks may include a one-stop delivery system established under Title I of the Workforce Investment Act of 1998. Employment networks are required to demonstrate specific expertise and experience and provide an array of services under the program. The Commissioner would select and enter into agreements with employment networks, provide periodic quality assurance reviews of employment networks, and establish a method for resolving disputes between beneficiaries and employment networks. Employment networks would meet financial reporting requirements as prescribed by the Commissioner, and prepare periodic performance reports which would be provided to beneficiaries holding a ticket and made available to the public.

Employment networks and beneficiaries would together develop an individual employment plan for each beneficiary that provides for informed choice in selecting an employment goal and specific services needed to achieve that goal. A beneficiary's written plan would take effect upon written approval by the beneficiary or beneficiary's representative.

Senate amendment

Identical provision regarding qualification, requirements, and reporting involving employment networks. Similar provision regarding individual employment plans, except that the Senate amendment does not require the statement of vocational goals to include ''as appropriate, goals for earnings and job advancement.''

Conference agreement

The Senate recedes to the House.

4. Payment to Employment Networks

Present law

No provision. (See description of present law under ''1. Ticket System'' above.)

House bill

The bill authorizes payment to employment networks for outcomes and long-term results through one of two payment systems, each designed to encourage maximum participation by providers to serve beneficiaries:

The outcome payment system would provide payment to employment networks up to 40 percent of the average monthly disability benefit for each month benefits are not be payable to the beneficiary due to work, not to exceed 60 months.

The outcome-milestone payment system is similar to the outcome payment system, except it would provide for early payment(s) based on the achievement of one or more milestones directed towards the goal of permanent employment. To ensure the cost-effectiveness of the program, the total amount payable to a service provider under the outcome-milestone payment system must be less than the total amount that would have been payable under the outcome payment system.

The Commissioner is required to periodically review both payment systems and may alter the percentages, milestones, or payment periods to ensure that employment networks have adequate incentive to assist beneficiaries in entering the workforce. In addition, the Commissioner is required to submit a report to Congress with recommendations for methods to adjust payment rates to ensure adequate incentives for the provision of services to individuals with special needs.

The bill requires the Commissioner to report to Congress within 3 years on the adequacy of program incentives for employment networks to provide services to ''high risk'' beneficiaries.

The bill authorizes transfers from the Social Security Trust Funds to carry out these provisions for Social Security beneficiaries, and authorizes appropriations to the Social Security Administration to carry out these provisions for SSI recipients.

Senate amendment

Similar provision, except that the Senate amendment:

Does not require the Commissioner to report to Congress within 3 years on the adequacy of program incentives for employment networks to provide services to ''high risk'' beneficiaries;

Provides for ''Allocation of Costs'' to employment networks from the Trust Funds for services rendered (rather than authorizing such amounts be transferred as in the House bill); and

Provides for specific treatment of the costs associated with dually-entitled individuals (that is, individuals receiving both SSI and SSDI benefits).

Conference agreement

The Senate recedes to the House.

5. Evaluation

Present law

No provision. (See description of present law under ''1. Ticket System'' above.)

House bill

The Commissioner is required to design and conduct a series of evaluations to assess the cost-effectiveness and outcomes of the program. The Commissioner is required to periodically provide to the Congress a detailed report of the program's progress, success, and any modifications needed.

Senate amendment

Similar provision, except the Senate amendment does not require evaluations to address the characteristics of ticket holders who are not accepted for services and reasons they were not accepted.

Conference agreement

The conference agreement follows the House bill and the Senate amendment with the modification that the Commissioner is required to provide for independent evaluations of program effectiveness.

6. Advisory Panel

Present law

No provision. (See description of present law under ''1. Ticket System'' above.)

House bill

The bill establishes a Ticket to Work and Work Incentives Advisory Panel consisting of experts representing consumers, providers of services, employers, and employees, at least one-half of whom are individuals with disabilities or representatives of individuals with disabilities. The Advisory Panel is to be composed of twelve members appointed as follows:

Four by the President, not more than two of whom may be of the same political party;

Two by the Speaker of the House of Representatives, in consultation with the Chairman of the Committee on Ways and Means;

Two by the Minority Leader of the House of Representatives, in consultation with ranking minority member of the Committee on Ways and Means;

Two by the Majority Leader of the Senate, in consultation with the Chairman of the Committee on Finance; and

Two members would be appointed by the Minority Leader of the Senate, in consultation with the ranking minority member of the Committee on Finance.

The Panel is to advise the Commissioner and report to the Congress on program implementation including such issues as the establishment of pilot sites, refinements to the program, and the design of program evaluations.

Senate amendment

Similar provision, except the Senate amendment:

Names the panel the Work Incentives Advisory Panel;

Does not specify that, of the 4 members of the panel appointed by the President, ''not more than 2 . . . may be of the same political party'';

Provides that the Commissioner, as opposed to the President under the House bill, is to designate whether panel members' initial terms will be 2 or 4 years;

Specifies that ''all members appointed to the panel shall have experience or expert knowledge of'' several work and disability-related fields, whereas the House bill requires that ''at least 8'' shall have such experience or knowledge, with at least 2 ''representing the interests of'' each of the following groups: service recipients, service providers, employers, and employees;

Provides that the Director of the Advisory Panel is to be appointed by the Commissioner in the Senate amendment (compared with by the Advisory Panel in the House bill); and

Provides that the costs of the Panel ''shall be paid from amounts made available'' for administration of the Title II and Title XVI programs under the Senate amendment (compared with the House bill, which authorizes such amounts from the OASI and DI trust funds and from the general fund of the Treasury for this purpose.

Conference agreement

The conference agreement follows the House bill, except that all 12 Panel members would be required to have experience or expert knowledge as a recipient, provider, employer, or employee. The agreement is based on the expectation that individuals with disabilities, as opposed to representatives of individuals with disabilities, would be appointed as Panel members whenever possible. In addition, the terms of initial appointment would be set by the individual

making the appointment, with each individual making appointments designating one-half of appointees for a term of 4 years and the other half for a term of 2 years. The conference agreement also provides that the Director of the Panel would be appointed by the Chairperson of the Advisory Panel.

Work Activity Standard as a Basis for Review of an Individual's Disabled Status

Present law

Eligibility for Social Security disability insurance (SSDI) cash benefits requires an applicant to meet certain criteria, including the presence of a disability that renders the individual unable to engage in substantial gainful activity. Substantial gainful activity is defined as work that results in earnings exceeding an amount set in regulations ($700 per month, as of July 1, 1999). Continuing disability reviews (CDRs) are conducted by the Social Security Administration (SSA) to determine whether an individual remains disabled and thus eligible for continued benefits. CDRs may be triggered by evidence of recovery from disability, including return to work. SSA is also required to conduct periodic CDRs every 3 years for beneficiaries with a nonpermanent disability, and at times determined by the Commissioner for beneficiaries with a permanent disability.

House bill

The bill establishes the standard that CDRs for long-term SSDI beneficiaries (i.e., those receiving disability benefits for at least 24 months) be limited to periodic CDRs. SSA would continue to evaluate work activity to determine whether eligibility for cash benefits continued, but a return to work would not trigger a review of the beneficiary's impairment to determine whether it continued to be disabling. This provision is effective January 1, 2003.

Senate amendment

Similar provision, except Senate amendment is effective upon enactment.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, except that the provision would be effective January 1, 2002.

Expedited Reinstatement of Disability Benefits

Present law

Individuals entitled to Social Security disability insurance (SSDI) benefits may receive expedited reinstatement of benefits following termination of benefits because of work activity any time during a 36–month extended period of eligibility. That is, benefits may be reinstated without the need for a new application and disability determination. Otherwise, the Commissioner of Social Security must make a new determination of disability before a claimant can reestablish reentitlement to disability benefits.

House bill

The bill establishes that an individual: (1) whose entitlement to SSDI benefits had been terminated on the basis of work activity following completion of an extended period of eligibility; or (2) whose eligibility for SSI benefits (including special SSI eligibility status under section 1619(b) of the Social Security Act) had been terminated following suspension of those benefits for 12 consecutive months on account of excess income resulting from work activity, may request reinstatement of those benefits without filing a new application. The individual must have become unable to continue working due to his or her medical condition and must file a reinstatement request within the 60–month period following the month of such termination.

While the Commissioner is making a determination pertaining to a reinstatement request, the individual would be eligible for provisional benefits (cash benefits and Medicare or Medicaid, as appropriate) for a period of not more than 6 months. If the Commissioner makes a favorable determination, such individual's prior entitlement to benefits would be reinstated, as would be the prior benefits of his or her dependents who continue to meet the entitlement criteria. If the Commissioner makes an unfavorable determination, provisional benefits would end, but the provisional benefits already paid would not be considered an overpayment. This provision is effective one year after enactment.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Work Incentives Outreach Program

Present law

The Social Security Administration prepares and distributes educational materials on work incentives for individuals receiving Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) benefits, including on the Internet. Social Security personnel in its 1,300 field offices are available to answer questions about work incentives. Work incentives currently include: exclusions for impairment-related work expenses; trial work periods during which an individual may continue to receive cash benefits; a 36–month extended period of eligibility during which cash benefits can be reinstated at any time; continued eligibility for Medicaid and/or Medicare; continued payment of benefits while a beneficiary is enrolled in a vocational rehabilitation program; and plans for achieving self-support (PASS).

House bill

The Commissioner of Social Security is required to establish a community-based work incentives planning and assistance program for the purpose of disseminating accurate information to individuals on work incentives. Under this program, the Commissioner is required to:

Establish a program of grants, cooperative agreements, or contracts to provide benefits planning and assistance (including protection and advocacy services) to individuals with disabilities and outreach to individuals with disabilities who are potentially eligible for work incentive programs; and

Establish a corps of work incentive specialists located within the Social Security Administration.

The Commissioner is required to determine the qualifications of agencies eligible for grants, cooperative agreements, or contracts. Social Security Administration field offices and State Medicaid agencies are deemed ineligible. Eligible organizations may include Centers for Independent Living, protection and advocacy organizations, and client assistance programs (established in accordance with the Rehabilitation Act of 1973, as amended); State Developmental Disabilities Councils (established in accordance with the Developmental Disabilities Assistance and Bill of Rights Act); and State welfare agencies (funded under Title IV-A of the Social Security Act).

Annual appropriations would not exceed $23 million for fiscal years 2000–2004. The provision would be effective on enactment. The grant amount in each State would be based on the number of beneficiaries in the State, subject to certain limits.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

State Grants for Work Incentives Assistance to Disabled Beneficiaries

Present law

Grants to States to provide assistance to individuals with disabilities are authorized under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.). Such assistance includes information on and referral to programs and services and legal, administrative, and other appropriate remedies to ensure access to services.

House bill

The Commissioner of Social Security is authorized to make grants to existing protection and advocacy programs authorized by the States under the Developmental Disabilities Assistance and Bill of Rights Act. Services would include information and advice about obtaining vocational rehabilitation, employment services, advocacy, and other services a Social Security Disability Insurance (SSDI) or Supplemental Security Income (SSI) beneficiary may need to secure or regain gainful employment, including applying for and receiving work incentives.

Appropriation would not exceed $7 million for each of the fiscal years 2000–2004. The provision would be effective upon enactment.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Title II. Expanded Availability of Health Care Services

Expanding State Options Under the Medicaid Program for Workers with Disabilities

Present law

Most States are required to provide Medicaid coverage for disabled individuals who are eligible for Supplemental Security Income (SSI). Individuals are considered disabled if they are unable to engage in substantial gainful activity (defined in Federal regulations as earnings of $700 per month) due to a medically determinable physical or mental impairment which is expected to result in death, or which has lasted or can be expected to last for at least 12 months. Eleven States link Medicaid eligibility to disability definitions which may be more restrictive than SSI criteria.

Eligibility for SSI is determined by certain federally-established income and resource standards. Individuals are eligible for SSI if their ''countable'' income falls below the Federal maximum monthly SSI benefit ($500 for an individual, and $751 for couples in 1999). Not all income is counted for SSI purposes. Excluded from income are the first $20 of any monthly income (i.e., either unearned, such as social security and other pension benefits, or earned) and the first $65 of monthly earned income plus one-half of the remaining earnings. The Federal limit on resources is $2,000 for an individual, and $3,000 for couples. Certain resources are not counted, including an individual's home, and the first $4,500 of the current market value of an automobile.

In addition, States must provide Medicaid coverage for certain individuals under 65 who are working. These persons are referred to as ''qualified severely impaired individuals'' under age 65. These are disabled and blind individuals whose earnings reach or exceed the basic SSI benefit standard, with disregards as determined by the States. (The current threshold for earnings is $1,085 per month.) This special eligibility status applies as long as the individual:

Continues to be blind or have a disabling impairment;

Except for earnings, continues to meet all the other requirements for SSI eligibility;

Would be seriously inhibited from continuing or obtaining employment if Medicaid eligibility were to end; and

Has earnings that are not sufficient to provide a reasonable equivalent of benefits from SSI, State supplemental payments (if provided by the State), Medicaid, and publicly funded attendant care that would have been available in the absence of those earnings.

A recent change in law allowed States to increase the income limit for Medicaid coverage of disabled individuals. The Balanced Budget Act of 1997 (P.L.105–33) allowed States to elect to provide Medicaid coverage to disabled persons who otherwise meet SSI eligibility criteria but have income up to 250 percent of the Federal poverty guidelines. Beneficiaries under the more liberal income limit may ''buy into'' Medicaid by paying premium costs. Premiums are set on a sliding scale based on an individual's income, as established by the State.

House bill

The bill allows States to establish one new optional Medicaid eligibility category: they may provide coverage to individuals with disabilities, aged 16 through 64, who are employed, and who cease to be eligible for Medicaid because their medical condition has improved, and are therefore determined to no longer be eligible for SSI and/or SSDI, but who continue to have a severe medically determinable impairment as defined by regulations of the Secretary of HHS. In addition, States could establish limits on assets, resources, and earned or unearned income for this group that differ from the federal requirements. In order to opt to cover this group, states must provide Medicaid coverage to individuals with disabilities whose income is no more than 250 percent of the federal poverty level, and who would be eligible for SSI, except for earnings.

Individuals would be considered to be employed if they earn at least the Federal minimum wage and work at least 40 hours per month, or are engaged in work that meets criteria for work hours, wages, or other measures established by the State and approved by the Secretary of Health and Human Services (HHS).

Individuals covered under this new option could ''buy into'' Medicaid coverage by paying premiums or other cost-sharing charges on a sliding fee scale based on their income, as established by the State.

The bill requires that in order to receive federal funds, States must maintain the level of expenditures they expended in the most recent fiscal year prior to enactment of this provision to enable working individuals with disabilities to work.

Senate amendment

Allows States to establish one or two new optional Medicaid eligibility categories:

States would have the option to cover individuals with disabilities (aged 16–64) who, except for earnings, would be eligible for SSI. In addition, States could establish limits on assets, resources and earned or unearned income that differ from the federal requirements.

If States provide Medicaid coverage to individuals described in (1) above, they may also provide coverage to the following: Employed persons with disabilities whose medical condition has improved, as described above in the House bill.

Individuals covered under these options could ''buy in'' to Medicaid coverage by paying premiums or other cost-sharing charges on a sliding-fee scale based on income. The State would be required to make premium or other cost-sharing charges the same for both these two new eligibility groups. States may require individuals with incomes above 250 percent of the federal poverty level to pay the full premium cost. In the case of individuals with incomes between 250 percent and 450 percent of the poverty level, premiums may not exceed 7.5 percent of income. States must require individuals with incomes above $75,000 per year to pay all of the premium costs. States may choose to subsidize premium costs for such individuals, but they may not use federal matching funds to do so.

Conference agreement

House recedes to Senate to include the Senate-passed Medicaid buy-in option, allowing States to permit working individuals with incomes above 250 percent of the Federal poverty level to buy-in to the Medicaid program. The conference agreement provides for an effective date of October 1, 2000.

Extending Medicare Coverage for OASDI Disability Benefit Recipients

Present law

Social Security Disability Insurance (SSDI) beneficiaries are allowed to test their ability to work for at least nine months without affecting their disability or Medicare benefits. Disability payments stop when a beneficiary has monthly earnings at or above the substantial gainful activity level ($700) after the 9–month period. If the beneficiary remains disabled but continues working, Medicare can continue for an additional 39 months, for a total of 48 months of coverage.

House bill

Effective October 1, 2000, the bill provides for continued Medicare Part A coverage for 6 years beyond the current limit.

The bill requires the General Accounting Office (GAO) to submit a report to Congress (no later than 5 years after enactment) that examines the effectiveness and cost of extending Medicare Part A coverage to working disabled persons without charging them a premium; the necessity and effectiveness of providing the continuation of Medicare coverage to disabled individuals with incomes above the Social Security taxable wage base ($72,600); the use of a sliding-scale premium for high-income disabled individuals; the viability of an employer buy-in to Medicare; the interrelation between the use of continuation of Medicare coverage and private health insurance coverage; and that recommends whether the Medicare coverage extension should continue beyond the extended period provided under the bill.

Senate amendment

The amendment provides that during the 6–year period following enactment of the bill, disabled Social Security beneficiaries who engage in substantial gainful activity would be eligible for Medicare Part A coverage. Medicare Part A coverage could continue indefinitely after the termination of the 6–year period following enactment of the bill for any individual who is enrolled in the Medicare Part A program for the month that ends the 6–year period, without requiring the beneficiaries to pay premiums. It also provides for conforming amendments to facilitate this change.

The Senate amendment does not require GAO to examine the viability of an employer buy-in to Medicare.

Conference agreement

The Senate recedes to the House, but instead of the 6–year extension beyond current law in the House bill, the agreement includes a 4½ year extension.

Grants to Develop and Establish State Infrastructures to Support Working Individuals with Disabilities

Present law

No provision.

House bill

The bill requires the Secretary of HHS to award grants to States to design, establish and operate infrastructures that provide items and services to support working individuals with disabilities, and to conduct outreach campaigns to inform them about the infrastructures. States would be eligible for these grants under the following conditions:

They must provide Medicaid coverage to employed individuals with disabilities whose income does not exceed 250 percent of the Federal poverty level and who would be eligible for Supplemental Security Income (SSI), except for earnings; and

They must provide personal assistance services to assist individuals eligible under the bill to remain employed (that is, earn at least the Federal minimum wage and work at least 40 hours per month, or engage in work that meets criteria for work hours, wages, or other measures established by the State and approved by the Secretary of HHS).

Personal assistance services refers to a range of services provided by one or more persons to assist individuals with disabilities to perform daily activities on and off the job. These services would be designed to increase individuals' control in life.

The Secretary of HHS is required to develop a formula for the award of infrastructure grants. The formula must provide special consideration to States that extend Medicaid coverage to persons who cease to be eligible for SSDI and SSI because of an improvement in their medical condition, but who still have a severe medically determinable impairment and are employed.

Grant amounts to States must be a minimum of $500,000 per year, and may be up to a maximum of 15 percent of Federal and State Medicaid expenditures for individuals with disabilities whose income does not exceed 250 percent of the Federal poverty level and who would be eligible for SSI, except for earnings; and for individuals who cease to be eligible for Medicaid because of medical improvement.

States would be required to submit an annual report to the Secretary on the use of grant funds. In addition, the report must indicate the percent increase in the number of SSDI and SSI beneficiaries who return to work.

For developing State infrastructure grants, the bill authorizes the following amount for: FY2000, $20 million; FY2001, $25 million; FY2002, $30 million; FY2003, $35 million; FY2004, $40 million; and FY2005–10, the amount of appropriations for the preceding fiscal year plus the percent increase in the CPI for All Urban Consumers for the preceding fiscal year. The bill stipulates budget authority in advance of appropriations.

The Secretary of HHS, in consultation with the Ticket to Work and Work Incentives Advisory Panel established by the bill, is required to make a recommendation by October 1, 2009, to the Committee on Commerce in the House and the Committee on Finance in the Senate regarding whether the grant program should be continued after FY 2010.

Senate amendment

Similar provision, except for the following:

States would be eligible for infrastructure grants if they provide Medicaid coverage to individuals with disabilities whose income except for earnings, would make them eligible for SSI, and who meet State-established limits on assets, resources and earned or unearned income;

Special consideration for developing the formula for distribution of infrastructure grants is to be given to States that provide Medicaid benefits to individuals who cease to

be eligible for SSDI and SSI because of an improvement in their medical condition, but who have a severe medically determinable impairment and are employed; and The name of the advisory panel is the Work Incentives Advisory Panel.

Conference agreement

State participation in the grant programs would be de-linked from adoption of Medicaid optional eligibility categories. Furthermore, the maximum award section would be amended to reflect that delinking. States that do not choose to take up the optional Medicaid eligibility category permitting expansion to individuals with disabilities with incomes up to 250 percent of poverty would be subject to a maximum grant award established by a methodology developed by the Secretary consistent with the limit applied to states that do take up the option. For those states who do take up the option, the maximum will be 10 percent, rather than the 15 percent included in the House and Senate passed bills. These provisions would be effective October 1, 2000, with funding of: FY2001, $20 million; FY2002, $25 million; FY2003, $30 million; FY2004, $35 million; FY2005, $40 million; and FY2006–11, the amount of appropriations for the preceding fiscal year plus the percent increase in the CPI for All Urban Consumers for the preceding fiscal year.

The conferees encourage states to exercise the option to permit disabled workers to buy into Medicaid. Providing a Medicaid buy-in option will encourage disabled individuals to return to work without fear of losing their existing health coverage. While election of the Medicaid buy-in option is not a condition of eligibility for infrastructure grants under this section, the conferees urge the Secretary to award such grants with preference for states exercising the buy-in option. Such grants may be used to help finance other State programs facilitating a return to work by disabled individuals, thereby supplementing the Medicaid buy-in benefit as well as other work incentives provided by this Act.

Demonstration of Coverage under the Medicaid Program of Workers with Potentially Severe Disabilities

Present law

No provision.

House bill

The Secretary of HHS is required to approve applications from States to establish demonstration programs that would provide medical assistance equal to that provided under Medicaid for disabled persons age 16–64 who are ''workers with a potentially severe disability.'' These are individuals who meet a State's definition of physical or mental impairment, who are employed, and who are reasonably expected to meet SSI's definition of blindness or disability if they did not receive Medicaid services.

The Secretary is required to approve demonstration programs if the State meets the following requirements:

The State has elected to provide Medicaid coverage to individuals with disabilities whose income does not exceed 250 percent of the Federal poverty level and who would be eligible for SSI, except for their earnings;

Federal funds are used to supplement State funds used for workers with potentially severe disabilities at the time the demonstration is approved; and

The State conducts an independent evaluation of the demonstration program.

The bill allows the Secretary to approve demonstration programs that operate on a sub-State basis.

For purposes of the demonstration, individuals would be considered to be employed if they earn at least the Federal minimum wage and work at least 40 hours per month, or are engaged in work that meets threshold criteria for work hours, wages, or other measures as defined by the demonstration project and approved by the Secretary.

The bill authorizes $56 million for the 5–year period beginning FY2000. The bill prohibits any further payments to States beginning in FY2006.

Unexpended funds from previous years may be spent in subsequent years, but only through FY2005. The Secretary is required to allocate funds to States based on their applications and the availability of funds. Funds awarded to States would equal their Federal medical assistance percentage (FMAP) of expenditures for medical assistance to workers with a potentially severe disability.

The Secretary of HHS is required to make a recommendation by October 1, 2002, to the Committee on Commerce in the House and the Committee on Finance in the Senate regarding whether the grant program should be continued after FY2003.

Senate amendment

Similar provision, except for the following:

requires States to provide Medicaid coverage to individuals with disabilities whose income except for earnings, would make them eligible for SSI, and who meet State-established limits on assets, resources and earned or unearned income;

authorizes $72 million for FY 2000, $74 million for FY 2001, $78 million for FY2002, and $81 million for FY 2003;

limits payments to States to no more than $300 million and prohibits payments beginning in FY2006;

requires States with an approved demonstration to submit an annual report to the Secretary, including data on the total number of persons served by the project, and the number who are ''workers with a potentially severe disability.'' The aggregate amount of payments to States for administrative expenses related to annual reports may not exceed $5 million.

Conference agreement

The conference agreement would authorize the demonstration at $250 million over 6 years, and eligibility for demonstration funds would be delinked from adoption of Medicaid optional eligibility categories. These provisions would be effective October 1, 2000. In addition, the House recedes to the Senate on the inclusion on the annual report. The limitation on administrative expenses is reduced to $2 million. States' definitions of workers with potentially severe disabilities can include individuals with a potentially severe disability that can be traced to congenital birth defects as well as diseases or injuries developed or incurred through illness or accident in childhood or adulthood.

Election by Disabled Beneficiaries to Suspend Medigap Insurance when Covered under a Group Health Plan

Present law

No provision.

House bill

The bill requires Medigap supplemental insurance plans to provide that benefits and premiums of such plans be suspended at the policyholder's request if the policyholder is entitled to Medicare Part A benefits as a disabled individual and is covered under a group health plan (offered by an employer with 20 or more employees). If suspension occurs and the policyholder loses coverage under the group health plan, the Medigap policy is required to be automatically reinstituted (as of the date of loss of group coverage) if the policyholder provides notice of the loss of such coverage within 90 days of the date of losing group coverage.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Title III. Demonstration Projects and Studies

Extension of Disability Insurance Program Demonstration Project Authority

Present law

Section 505 of the Social Security Disability Amendments of 1980, as amended, (42 U.S.C. 1310) provides the Commissioner of Social Security authority to conduct certain demonstration projects. The Commissioner may initiate experiments and demonstration projects to test ways to encourage Social Security Disability Insurance (SSDI) beneficiaries to return to work, and may waive compliance with certain benefit requirements in connection with these projects. This demonstration authority expired on June 9, 1996.

House bill

Effective as of the date of enactment, the bill extends the demonstration authority for 5 years, and includes authority for demonstration projects involving applicants as well as beneficiaries.

Senate amendment

The Senate amendment provides for permanent demonstration authority.

Conference agreement

The Senate recedes to the House.

Demonstration Projects Providing for Reductions in Disability Insurance Benefits Based on Earnings

Present law

No provision.

House bill

The bill would require the Commissioner of Social Security to conduct a demonstration project under which payments to Social Security disability insurance (SSDI) beneficiaries would be reduced $1 for every $2 of beneficiary earnings. The Commissioner would be required to annually report to the Congress on the progress of this demonstration project.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Studies and Reports

Present law

No provision

House bill

1. GAO Report of Existing Disability-Related Employment Incentives.

The bill would direct the General Accounting Office (GAO) to assess the value of existing tax credits and disability-related employment initiatives under the Americans with Disabilities Act and other Federal laws. The report is to be submitted within 3 years to the Senate Committee on Finance and the House Committee on Ways & Means.

2. GAO Report of Existing Coordination of the DI and SSI Programs as They Relate to Individuals Entering or Leaving Concurrent Entitlement

The bill would direct the General Accounting Office (GAO) to evaluate the coordination under current law of work incentives for individuals eligible for both Social Security disability insurance (SSDI) and Supplemental Security Income (SSI). The report is to be submitted within 3 years to the Senate Committee on Finance and the House Committee on Ways & Means.

3. GAO Report on the Impact of the Substantial Gainful Activity Limit on Return to Work.

The bill would direct the General Accounting Office (GAO) to examine substantial gainful activity limit as a disincentive for return to work. The report is to be submitted within 2 years to the Senate Committee on Finance and the House Committee on Ways & Means.

4. Report on Disregards Under the DI and SSI Programs.

The bill would direct the Commissioner of Social Security to identify all income disregards under the Social Security disability insurance (SSDI) and Supplemental Security Income (SSI) programs; to specify the most recent statutory or regulatory change in each disregard; the current value of any disregard if the disregard had been indexed for inflation; recommend any further changes; and to report certain additional information and recommendations on disregards related to grants, scholarships, or fellowships used in attending any educational institution. The report is to be submitted within 90 days to the Senate Committee on Finance and the House Committee on Ways & Means.

5. GAO Report on SSA's Demonstration Authority

The bill would direct GAO to assess the Social Security Administration's (SSA) efforts to conduct disability demonstrations and to make a recommendation as to whether SSA's disability demonstration authority should be made permanent. The report is to be submitted within 5 years to the Senate Committee on Finance and the House Committee on Ways and Means.

Senate amendment

Similar provision, but does not include the GAO report on SSA's demonstration authority.

Conference agreement

The Senate recedes to the House.

Title IV. Miscellaneous and Technical Amendments

Technical Amendments Relating to Drug Addicts and Alcoholics

Present law

Public Law 104–121 included amendments to the SSDI and SSI disability programs providing that no individual could be considered to be disabled if alcoholism or drug addiction would otherwise be a contributing factor material to the determination of disability. The effective date for all new and pending applications was the date of enactment (March 29, 1996). For those whose claim had been finally adjudicated before the date of enactment, the amendments would apply commencing with benefits for months beginning on or after January 1, 1997. Individuals receiving benefits due to drug addiction or alcoholism can reapply for benefits based on another impairment. If the individual applied within 120 days after the date of enactment, the Commissioner is required to complete the entitlement redetermination by January 1, 1997.

Public Law 104–121 provided for the appointment of representative payees for recipients allowed benefits due to another impairment who also have drug addiction or alcoholism conditions, and the referral of those individuals for treatment.

House bill

The bill clarifies that the meaning of the term ''final adjudication'' includes a pending request for administrative or judicial review or a pending readjudication pursuant to class action or court remand. The bill also clarifies that if the Commissioner does not perform the entitlement redetermination before January 1, 1997, that entitlement redetermination must be performed in lieu of a continuing disability review.

The provision also corrects an anomaly that currently excludes all those allowed benefits (due to another impairment) before March 29, 1996, and redetermined before July 1, 1996, from the requirement that a representative payee be appointed and that the beneficiary be referred for treatment.

The amendments are effective as though they had been included in the enactment of Section 105 of Public Law 104–121 on March 29, 1996.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Treatment of Prisoners

1. Implementation of Prohibition Against Payment of Title II Benefits to Prisoners

Present law

Current law prohibits prisoners from receiving Old Age, Survivors and Disability (OASDI) benefits while incarcerated if they are convicted of any crime punishable by imprisonment of more than 1 year. Federal, State, county or local prisons are required to make available, upon written request, the name and Social Security account number of any individual so convicted who is confined in a penal institution or correctional facility.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, commonly referred to as the welfare reform law, requires the Commissioner to make agreements with any interested State or local institution to provide monthly the names, Social Security account numbers, confinement dates, dates of birth, and other identifying information of residents who are SSI recipients. The Commissioner is required to pay the institution $400 for each SSI recipient who becomes ineligible as a result if the information is provided within 30 days of incarceration, and $200 if the information is furnished after 30 days but within 90 days. P.L. 104–193 requires the Commissioner to study the desirability, feasibility, and cost of establishing a system for courts to directly furnish SSA with information regarding court orders affecting SSI recipients, and requiring that State and local jails, prisons, and other institutions that enter into contracts with the Commissioner to furnish the information by means of an electronic or similar data exchange system.

The Commissioner is authorized to provide, on a reimbursable basis, information obtained pursuant to these agreements to any Federal or federally-assisted cash, food, or medical assistance program for the purpose of determining program eligibility.

House bill

The House bill amends prisoner provisions in the welfare reform law to include recipients of OASDI benefits in the prisoner reporting system.

The bill requires the Commissioner to enter into an agreement with any interested State or local correctional institution to provide monthly the names, Social Security account numbers, confinement dates, dates of birth, and other identifying information regarding prisoners who receive OASDI benefits. Certain requirements for computer matching agreements would not apply. For each eligible individual who becomes ineligible as a result, the Commissioner would pay the institution an amount up to $400 if the information is provided within 30 days of incarceration, and up to $200 if provided after 30 days but within 90 days.

Payments to correctional institutions would be reduced by 50 percent for multiple reports on the same individual who receives both SSI and OASDI benefits. Payments made to the correctional institution would be made from OASI or DI Trust Funds, as appropriate.

The Commissioner is required to provide on a reimbursable basis information obtained pursuant to these agreements to any Federal or federally-assisted cash, food, or medical assistance program for the purpose of determining program eligibility.

These amendments are effective for prisoners whose confinement begins on or after the first day of the fourth month after the month of enactment.

Senate amendment

Similar provision, except the Senate amendment:

Authorizes, rather than requires, the Commissioner to provide information obtained under this provision to be shared with other Federal and federally-assisted agencies;

Limits the uses of this information to ''eligibility purposes'' not including ''other administrative purposes'' as provided in the House bill; and

Does not include conforming amendments.

Conference agreement

The Senate recedes to the House.

2. Elimination of Title II Requirement That Confinement Stem From Crime Punishable by Imprisonment For More Than 1 Year

Present law

The Social Security Act bars payment of OASDI benefits to prisoners convicted of any crime punishable by imprisonment of more than one year and to those who are institutionalized because they are found guilty but insane. In addition, the law stipulates that no monthly benefits shall be paid to any person for any month during which the person is an inmate.

House bill

This House bill broadens the prohibition of OASDI benefits to prisoners to be identical to those that apply to SSI benefits. In addition, it replaces ''an offense punishable by imprisonment for more than 1 year'' with ''a criminal offense,'' and includes benefits payable to persons confined to: (1) a penal institution; or (2) other institution if found guilty but insane, regardless of the total duration of the confinement. An exception would be made for prisoners incarcerated for less than 30 days. The provision is effective for prisoners whose confinement begins on or after the first day of the fourth month after the month of enactment.

Senate amendment

Similar provision, except restrictions would apply during months throughout which the criminal was incarcerated, rather than in any month during which the criminal was incarcerated as in the House bill. In addition, does not exempt prisoners convicted of crimes punishable by imprisonment of less 30 days.

Conference agreement

The Senate recedes to the House.

3. Conforming Title XVI Amendments

Present law

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 required the Commissioner of Social Security to enter into an agreement with any interested State or local institution (defined as a jail, prison, other correctional facility, or institution where the individual is confined due to a court order) under which the institution shall provide monthly the names, Social Security numbers, dates of birth, confinement dates, and other identifying information of prisoners. The Commissioner must pay to

the institution for each eligible individual who becomes ineligible for SSI $400 if the information is provided within 30 days of the individual's becoming an inmate. The payment is $200 if the information is furnished after 30 days but within 90 days.

House bill

The amendment is designed to clarify the provision in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 that, in cases in which an inmate receives benefits under both the SSI and Social Security programs, payments to correctional facilities would be restricted to $400 or $200, depending on when the report is furnished. The amendment also expands the categories of institutions eligible to report incarceration of prisoners. This provision is effective as of the enactment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 on August 22, 1996.

Senate amendment

Similar provision, but limits the uses of this information to ''eligibility purposes'' not including ''other administrative purposes'' as provided in the House bill.

Conference agreement

The Senate recedes to the House.

4. Continued Denial of Benefits to Sex Offenders Remaining Confined to Public Institutions Upon Completion of Prison Terms

Present Law

No provision.

House bill

The bill prohibits OASDI payments to sex offenders who, on completion of a prison term, remain confined in a public institution pursuant to a court finding that they continue to be sexually dangerous to others. The provision applies to benefits for months ending after the date of enactment.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Revocation by Members of the Clergy of Exemption From Social Security Coverage

Present law

Practicing members of the clergy are automatically covered by Social Security as self-employed workers unless they file for an exemption from Social Security coverage within a period ending with the due date of the tax return for the second taxable year (not necessarily consecutive) in which they begin performing their ministerial services. Members of the clergy seeking the exemption must file statements with their church, order, or licensing or ordaining body stating their opposition to the acceptance of Social Security benefits on religious principles. If elected, this exemption is irrevocable.

House bill

The House bill provides a 2-year ''open season,'' beginning January 1, 2000, for members of the clergy who want to revoke their exemption from Social Security. This decision to join Social Security would be irrevocable. A member of the clergy choosing such coverage would become subject to self-employment taxes and his or her subsequent earnings would be credited for Social Security (and Medicare) benefit purposes. The provision is effective January 1, 2000, for a period of 2 years.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Additional Technical Amendment Relating to Cooperative Research or Demonstration Projects Under Titles II and XVI

Present law

Current law authorizes Title XVI funding for making grants to States and public and other organizations for paying part of the cost of cooperative research or demonstration projects.

House bill

The provision clarifies current law to include agreements or grants concerning Title II of the Social Security Act and is effective as of August 15, 1994.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Authorization for States to Permit Annual Wage Reports

Present law

The Social Security Domestic Employment Reform Act of 1994 (P.L. 103–387) changed certain Social Security and Medicare tax rules. Specifically, the Act provided that domestic service employers (that is, individuals employing maids, gardeners, babysitters, and the like) would no longer owe taxes for any domestic employee who earned less than $1,000 per year from the employer. In addition, the Act simplified certain reporting requirements. Domestic employers were no longer required to file quarterly returns regarding Social Security and Medicare taxes, nor the annual Federal Unemployment Tax Act (FUTA) return. Instead, all Federal reporting was consolidated on an annual Schedule H filed at the same time as the employer's personal income tax return.

House bill

The provision allows States the option of permitting domestic service employers to file annual rather than quarterly wage reports pursuant to section 1137 of the Social Security Act, which provides for an income and eligibility verification system (IEVS) for certain public benefits. This provision is effective as of the date of enactment.

Senate amendment

Identical provision.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

Assessment on Attorneys Who Receive Fees Via the Social Security Administration

Present law

The Commissioner of Social Security, using one of two processes, authorizes the fee that may be charged by an attorney or non-attorney to represent a claimant in administrative proceedings for Social Security, SSI, or Part B Black Lung benefits.

Under the fee agreement process, the representative and claimant submit a signed agreement reflecting the amount of the fee before the date of a favorable decision, and the agreement usually will be approved by the Commissioner if the specified fee does not exceed the lesser of 25 percent of the claimant's past-due benefits or $4,000. The Commissioner then issues a notice of the maximum fee the representative can charge based on the approved agreement.

Under the fee petition process, the representative submits an itemized list of services and fees after a decision has been issued. The Commissioner will issue a notice of the fees that are approved or disapproved after reviewing the extent and types of services performed, the complexity of the case, and the amount of time spent by the representative on the case.

The Social Security Act and Social Security regulations provide that a representative may not charge or collect, directly or indirectly, a fee in any amount not approved by the Social Security Administration (SSA) or a Federal court. The statute and regulations further provide that SSA may suspend or disqualify from further practice before SSA a representative who breaks the rules governing representatives.

Under programs authorized under title II of the Social Security Act, in favorable decisions in which the claimant is represented by an attorney, the Commissioner must withhold and certify direct payment to the attorney, out of the claimant's past-due benefits, an amount equal to the smaller of: (1) 25 percent of the past-due benefits, or (2) the fee authorized by the Commissioner under either the fee petition or fee agreement process. This payment provision does not apply to SSI benefits and an attorney must look to the SSI beneficiary for payment of the fee. In addition, it does not apply to fees requested by non-attorney representatives.

The costs associated with approving, determining, processing, withholding, and certifying direct payment of attorney fees are currently absorbed in SSA's administrative budget.

House bill

The bill requires the Commissioner of Social Security to recover from attorneys' fees the cost of administering the process used to certify payment of attorneys fees. The assessment would be withheld from the amount payable to the attorney and the attorney would be prohibited from recovering the assessment from the beneficiary. The provision specifies an assessment of 6.3 percent of the approved attorney's fee for FY2000. After FY2000, the percentage would be adjusted by the Commissioner as necessary to achieve full recovery of the costs associated with certifying fees to attorneys.

The provision is applicable to fees required to be certified for payment after December 31, 1999, or the last day of the first month beginning after the month of enactment, whichever is later.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with the modification that, for calendar years after 2000, the assessment would be set at a rate to achieve full recovery of the costs of determining, processing, withholding, and distributing payment of fees to attorneys, but shall not exceed 6.3 percent of the attorney's fee. The Conferees expect that the Commissioner of Social Security will take into account in determining the cost to the Social Security Administration the processing, withholding, and distributing of payments of fees to attorneys. The agreement contemplates ongoing Congressional oversight of the attorney fee assessment process through hearings and requires a study by the General Accounting Office (GAO) to examine the costs of administering the attorney fee provisions with specific estimates of the costs of processing, withholding, and distributing of payment of fees. GAO would also explore the feasibility and advisability of a fixed fee as opposed to an assessment based on a percentage of the attorney's fee and would determine whether the assessment impairs access to representation for applicants. GAO would be required to make recommendations regarding efficiencies that the Commissioner could implement to reduce the cost of determining and certifying fees, the feasibility of linking the collection of the assessment to the timeliness of the payment of fees to attorneys, and

the advisability of extending attorney fee disbursement to the Supplemental Security Income program. The agreement also eliminates the requirement that the Commissioner may not certify a fee before the end of the 15–day waiting period, but does not affect any beneficiary's right of appeal.

The authority is provided to the SSA to decrease the user fee assessment, and accordingly it should be decreased to take into account any administrative savings associated with technological improvements or administrative efficiencies implemented by the SSA or if the GAO finds that actual administrative expenses are less than reported by the SSA. The SSA should devote special attention to GAO recommendations related to program improvements or administrative efficiencies.

In addition, the Congress and the Committees of jurisdiction should reconsider the assessment promptly if the GAO finds that such a fee in any way impairs or impacts beneficiaries' ability to obtain and secure legal representation.

Prevention of Fraud and Abuse Associated with Certain Payments Under the Medicaid Program

Present law

Under the Individuals with Disabilities Education Act (IDEA), public schools must provide children with disabilities with a free and appropriate public education in the least restrictive educational setting, including special education and health-related services according to their individualized education program (IEP). In order to assist schools in meeting this obligation, under certain circumstances States may turn to Medicaid as a payer for health-related services such as occupational therapy, speech therapy, and physical therapy. Under certain conditions, school districts may directly bill their State Medicaid program for health-related services provided to disabled children enrolled in Medicaid. In addition, a school district may utilize a community-based organization to provide health-related services to disabled children enrolled in Medicaid.

In May of 1999, the Health Care Financing Administration (HCFA) clarified federal policies with respect to reimbursement for school-based health services under Medicaid in three areas: (1) bundled rates for medical services provided to Medicaid-eligible children in schools; (2) Federal matching payments for school health-related transportation services; and (3) school health-related administrative activities.

House bill

The bill stipulates that Medicaid payments for school-based services and related administrative costs are not to be made unless certain conditions are met. First, individual items and services may not be bundled unless payment is made under a methodology approved by the Secretary of Health and Human Services (HHS). Similarly, fee-for-service payment for individual items and services and administrative expenses is permitted only when payment does not exceed amounts paid to other entities for the same items, services, or administrative expenses, or is made in accordance with an alternative arrangement approved by the Secretary. This provision also codifies HCFA's policies on transportation services in effect as of May 1999. Finally, the provision delineates specific conditions under which payments for Medicaid covered items, services and administrative expenses can be made when a public agency such as a school district contracts with an entity to conduct claims processing functions.

The bill requires coordination between states, managed care entities and schools related to provision of and payment for Medicaid services provided in school settings. The provision would ensure that local school agencies are able to recoup an appropriate amount of federal financial match when they make expenditures for services for these Medicaid eligible children. Finally, the provision specifies that the Administrator of HCFA, in consultation with State Medicaid and education agencies and local school systems, will develop and implement a uniform methodology for administrative claims made by schools.

Senate amendment

No provision.

Conference agreement

The House recedes to the Senate.

Extension of Authority of State Medicaid Fraud Control Units

Present law

Medicaid Fraud Control Units established by State governments as entities separate from the State's Medicaid agency are authorized to investigate and refer for prosecution Medicaid fraud as well as patient abuse in facilities that participate in the Medicaid program.

House bill

The bill permits State Medicaid Fraud Control Units to investigate fraud related to any Federal health care program, subject to the approval of the appropriate Inspector General, if the suspected fraud is related to Medicaid fraud. Funds that are recovered would be returned to the relevant Federal health care program or the Medicaid program. Fraud control units would be permitted to investigate patient abuse in non-Medicaid residential health care facilities.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the House.

Climate Database Modernization

Present law

No provision.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

Notwithstanding any other provision of law, the National Oceanic and Atmospheric Administration (NOAA) shall contract for its multi-year program for climate database modernization and utilization in accordance with NIH Image World Contract #263–96–D–0323 and Task Order #56–DKNE–9–98303 which were awarded as a result of fair and open competition conducted in response to NOAA's solicitation IW SOW 1082.

Special Allowance Adjustment for Student Loans

Present law

Under the Higher Education Act of 1965, the special allowance paid to lenders for participation in the Federal Family Education Loan Program is pegged to the rate for 91-day Treasury bills.

House bill

The bill changes the index for the special allowance from 91-day Treasury bills to that for 3-month commercial paper and would be applicable for payment with respect to any 3-month period beginning on or after January 1, 2000, for loans for which the first disbursement is made after such date.

Senate amendment

No provision.

Conference agreement

The Senate recedes to the House. In receding to the House on the provision, the conferees wish to note that the Higher Education Act reauthorization (P.L. 105–244) required the establishment of a study group to design and conduct a study to identify and evaluate means of establishing a market mechanism for the delivery of Title IV loans. Not fewer than three different mechanisms were to be identified and evaluated by this group which was to report to the Congress no later than May 15, 2001. The conferees wish to note that the Chairman and Ranking Member of the Committee on Education and the Workforce and the Chairman and Ranking Member of the House Subcommittee on Postsecondary Education, Training and Life Long Learning have endorsed the change to the lender yield calculation on student loans contained in the bill. The proposal would change lender yields from January 1, 2000 through June 30, 2003 at which time the House Education and the Workforce Committee and the Senate Health, Education, Labor, and Pension Committee can appropriately review this item during the consideration of the Higher Education Act reauthorization.

Schedule for Payments Under SSI State Supplementation Agreements

Present law

States may supplement the federal Supplemental Security Income (SSI) payment. The Social Security Administration (SSA) administers this state supplement payment for 26 States. Under current regulations, States must reimburse SSA within 5 business days after the monthly supplement payment has been made by SSA.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement would change the date for remitting reimbursement by the States to no later than the business day preceding the date SSA pays the monthly benefit. For the payment for the last month of the State's fiscal year, States shall remit the reimbursement by the fifth business day following the date SSA pays the monthly benefit. The agreement also provides for a penalty of 5 percent of the payment and fees due if the payment is received after the specified dates. This provision is effective for monthly benefits paid for months after September 2009 (October 2009 for States with fiscal years that coincide with the Federal fiscal year).

Bonus Commodities Related to the National School Lunch Act

Present law

In the School Lunch program, schools are entitled to federal food commodity assistance for each meal they serve. Commodity assistance must equal a specific amount per meal, about 15 cents a meal in the 1999–2000 school year. In addition, when all school lunch program aid (cash and commodities) are added together, the value of commodities purchased to meet the per-meal (15–cent) entitlement—so-called entitlement commodities—must equal 12 percent of the total cash and commodity aid provided. If not, the Agriculture Department is required to buy additional commodities to meet the 12 percent requirement.

The Agriculture Department appropriations laws for fiscal years 1999 and 2000 changed this 12 percent rule temporarily. They require that any commodities acquired by the Agriculture Department for farm support reasons, and then donated to schools in the school lunch program (so-called bonus commodities), be counted when judging whether the 12 percent requirement has been met.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement would apply the provisions incorporated in the Agriculture Department appropriations laws for fiscal years 1999 and 2000 to fiscal years 2001 through 2009.

Simplification of Foster Child Definition Under Earned Income Credit

Present law

For purposes of the earned income credit (''EIC''), qualifying children may include foster children who reside with the taxpayer for a full year, if the taxpayer cares for the foster children as the taxpayer's own children. (Code sec. 32(c)(3)(B)(iii)). All EIC qualifying children (including foster children) must either be under the age of 19 (24 if a full-time student) or permanently and totally disabled. There is no requirement that the foster child either be (1) placed in the household by a foster care agency or (2) a relative of the taxpayer.

House bill

NO PROVISION.

SENATE AMENDMENT

No provision.

CONFERENCE AGREEMENT

For purposes of the EIC, a foster child is defined as a child who (1) is cared for by the taxpayer as if he or she were the taxpayer's own child, (2) has the same principal place of abode as the taxpayer for the taxpayer's entire taxable year, and (3) either is the taxpayer's brother, sister, stepbrother, stepsister, or descendant (including an adopted child) of any such relative, or was placed in the taxpayer's home by an agency of a State or one of its political subdivisions or by a tax-exempt child placement agency licensed by a State.

Delay of Effective Date of Organ Procurement and Transplantation Network Final Rule

Present law

No provision.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The final rule entitled ''Organ Procurement and Transplantation Network'', promulgated by the Secretary of Health and Human Services on April 2, 1998, together with the amendments to such rules promulgated on October 20, 1999 shall not become effective before the expiration of the 90–day period beginning on the date of enactment of this Act.

LEGISLATIVE BACKGROUND

H.R. 1180, the ''Ticket to Work and Work Incentives Improvement Act of 1999,'' was passed by the House on October 19, 1999. In the Senate, the provisions of S. 331 (the ''Work Incentives Improvement Act of 1999''), with an amendment, were substituted, and the bill, as amended, passed the Senate on October 21, 1999. The conference agreement to H.R. 1180 contains provisions to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities. Provisions of H.R. 2923 (''Extension of Expiring Provisions''),[1] as approved by the Ways and Means Committee on September 28, 1999, and S. 1792, (the ''Tax Relief Extension Act of 1999''),[2] as passed by the Senate on October 29, 1999, are included in the conference agreement to H.R. 1180.

I. EXTENSION OF EXPIRED AND EXPIRING TAX PROVISIONS

A. Extend Minimum Tax Relief for Individuals (secs. 24 and 26 of the Code)

Present Law

Present law provides for certain nonrefundable personal tax credits (i.e., the dependent care credit, the credit for the elderly and disabled, the adoption credit, the child tax credit, the credit for interest on certain home mortgages, the HOPE Scholarship and Lifetime Learning credits, and the D.C. homebuyer's credit). Except for taxable years beginning during 1998, these credits are allowed only to the extent that the individual's regular income tax liability exceeds the individual's tentative minimum tax, determined without regard to the minimum tax foreign tax credit. For taxable years beginning during 1998, these credits are allowed to the extent of the full amount of the individual's regular tax (without regard to the tentative minimum tax).

An individual's tentative minimum tax is an amount equal to (1) 26 percent of the first $175,000 ($87,500 in the case of a married individual filing a separate return) of alternative minimum taxable income (''AMTI'') in excess of a phased-out exemption amount and (2) 28 percent of the remaining AMTI. The maximum tax rates on net capital gain used in computing the tentative minimum tax are the same as under the regular tax. AMTI is the individual's taxable income adjusted to take account of specified preferences and adjustments. The exemption amounts are: (1) $45,000 in the case of married individuals filing a joint return and surviving spouses; (2) $33,750 in the case of other unmarried individuals; and (3) $22,500 in the case of married individuals filing a separate return, estates and trusts. The exemption amounts are phased out by an amount equal to 25 percent of the amount by which the individual's AMTI exceeds (1) $150,000 in the case of married individuals filing a joint return and surviving spouses, (2) $112,500 in the case of other unmarried individuals, and (3) $75,000 in the case of married individuals filing separate returns or an estate or a trust. These amounts are not indexed for inflation.

For families with three or more qualifying children, a refundable child credit is provided, up to the amount by which the liability for social security taxes exceeds the amount of the earned income credit (sec. 24(d)). For taxable years beginning after 1998, the refundable child credit is reduced by the amount of the individual's minimum tax liability (i.e., the amount by which the tentative minimum tax exceeds the regular tax liability).

House Bill

No provision. H.R. 2923, as approved by the Committee on Ways and Means, makes permanent the provision that allows an individual to offset the entire regular tax liability (without regard to the minimum tax) by the personal nonrefundable credits.

H.R. 2923 repeals the present-law provision that reduces the refundable child credit by the amount of an individual's minimum tax.

Effective date.—The provisions of H.R. 2923 are effective for taxable years beginning after December 31, 1998.

Senate Amendment

No provision. S. 1792, as passed by the Senate, contains the same provisions as H.R. 2923, except that the provisions apply only to taxable years beginning in 1999 and 2000.

Conference Agreement

The conference agreement extends the provision that allows the nonrefundable credits to offset the individual's regular tax liability in full (as opposed to only the amount by which the regular tax exceeds the tentative minimum tax) to taxable years beginning in 1999. For taxable years beginning in 2000 and 2001 the personal nonrefundable credits may offset both the regular tax and the minimum tax.[3]

Under the conference agreement, the refundable child credit will not be reduced by the amount of an individual's minimum tax in taxable years beginning in 1999, 2000, and 2001.

B. Extend Research and Experimentation Tax Credit and Increase Rates for the Alternative Incremental Research Credit (sec. 41 of the Code)

Present Law

Section 41 provides for a research tax credit equal to 20 percent of the amount by which a taxpayer's qualified research expenditures for a taxable year exceeded its base amount for that year. The research tax credit expired and generally does not apply to amounts paid or incurred after June 30, 1999.

Except for certain university basic research payments made by corporations, the research tax credit applies only to the extent that the taxpayer's qualified research expenditures for the current taxable year exceed its base amount. The base amount for the current year generally is computed by multiplying the taxpayer's ''fixed-base percentage'' by the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurred qualified research expenditures and had gross receipts during each of at least three years from 1984 through 1988, then its ''fixed-base percentage'' is the ratio that its total qualified research expenditures for the 1984–1988 period bears to its total gross receipts for that period (subject to a maximum ratio of .16). All other taxpayers (so-called ''start-up firms'') are assigned a fixed-base percentage of 3 percent. Expenditures attributable to research that is conducted outside the United States do not enter into the credit computation.

Taxpayers are allowed to elect an alternative incremental research credit regime. If a taxpayer elects to be subject to this alternative regime, the taxpayer is assigned a three-tiered fixed-base percentage (that is lower than the fixed-base percentage otherwise applicable under present law) and the credit rate likewise is reduced. Under the alternative credit regime, a credit rate of 1.65 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1 percent (i.e., the base amount equals 1 percent of the taxpayer's average gross receipts for the four preceding years) but do not exceed a base amount computed by using a fixed-base percentage of 1.5 percent. A credit rate of 2.2 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 1.5 percent but do not exceed a base amount computed by using a fixed-base percentage of 2 percent. A credit rate of 2.75 percent applies to the extent that a taxpayer's current-year research expenses exceed a base amount computed by using a fixed-base percentage of 2 percent. An election to be subject to this alternative incremental credit regime may be made for any

[1] The provisions of H.R. 2923 were reported by the House Committee on Ways and Means on September 28, 1999 (H. Rept. 106–344).

[2] The provisions of S. 1792 were reported by the Senate Committee on Finance on October 26, 1999 (S. Rept. 106–201).

[3] The foreign tax credit will be allowed before the personal credits in computing the regular tax for these years.

taxable year beginning after June 30, 1996, and such an election applies to that taxable year and all subsequent years (in the event that the credit subsequently is extended by Congress) unless revoked with the consent of the Secretary of the Treasury.

House Bill

No provision. However, H.R. 2923, as approved by the Committee on Ways and Means, extends the research tax credit for five years—i.e., generally, for the period July 1, 1999, through June 30, 2004.

In addition, the provision increases the credit rate applicable under the alternative incremental research credit one percentage point per step, that is from 1.65 percent to 2.65 percent when a taxpayer's current-year research expenses exceed a base amount of 1 percent but do not exceed a base amount of 1.5 percent; from 2.2 percent to 3.2 percent when a taxpayer's current-year research expenses exceed a base amount of 1.5 percent but do not exceed a base amount of 2 percent; and from 2.75 percent to 3.75 percent when a taxpayer's current-year research expenses exceed a base amount of 2 percent.

Research tax credits that are attributable to the period beginning on July 1, 1999, and ending on September 30, 2000, may not be taken into account in determining any amount required to be paid for any purpose under the Internal Revenue Code prior to October 1, 2000. On or after October 1, 2000, such credits may be taken into account through the filing of an amended return, an application for expedited refund, an adjustment of estimated taxes, or other means that is allowed by the Code.

Effective date.—The extension of the research credit is effective for qualified research expenditures paid or incurred during the period July 1, 1999, through June 30, 2004. The increase in the credit rate under the alternative incremental research credit is effective for taxable years beginning after June 30, 1999. Estimated tax penalties will be waived for the period before July 1, 1999, with respect to any underpayment that is created by reason of the rule allocating research credits to a period based on the ratio of months in such period to the months in the taxable year.

Senate Amendment

No provision. However, S. 1792, as passed by the Senate, extends the research tax credit for 18 months—i.e., generally, for the period July 1, 1999, through December 31, 2000.

In addition, S. 1792 increases the credit rate applicable under the alternative incremental research credit one percentage point per step, that is, identical to the H.R. 2923.

Lastly, S. 1792 expands the definition of qualified research to include research undertaken in Puerto Rico and possessions of the United States. However, any employee compensation or other expense claimed for computation of the research credit may not also be claimed for the purpose of any credit allowable under sec. 30A (''Puerto Rico economic activity credit'') or under sec. 936 (''Puerto Rico and possession tax credit'').

Effective date.—The extension of the research credit is effective for qualified research expenditures paid or incurred during the period July 1, 1999, through December 31, 2000. The increase in the credit rate under the alternative incremental research credit is effective for taxable years beginning after June 30, 1999. The expansion of qualified research to include research undertaken in any possession of the United States is effective for qualified research expenditures paid or incurred beginning after June 30, 1999.

Conference Agreement

The conference agreement includes the provision of H.R. 2923 by extending the research credit through June 30, 2004.

In addition, the conference agreement follows H.R. 2923 and S. 1792 by increasing the credit rate applicable under the alternative incremental research credit by one percentage point per step.

The conference agreement follows S. 1792 by expanding the definition of qualified research to include research undertaken in Puerto Rico and possessions of the United States.

Research tax credits that are attributable to the period beginning on July 1, 1999, and ending on September 30, 2000, may not be taken into account in determining any amount required to be paid for any purpose under the Internal Revenue Code prior to October 1, 2000. On or after October 1, 2000, such credits may be taken into account through the filing of an amended return, an application for expedited refund, an adjustment of estimated taxes, or other means that are allowed by the Code. The prohibition on taking credits attributable to the period beginning on July 1, 1999, and ending on September 30, 2000, into account as payments prior to October 1, 2000, extends to the determination of any penalty or interest under the Code. For example, the amount of tax required to be shown on a return that is due prior to October 1, 2000 (excluding extensions) may not be reduced by any such credits. In addition, the conferees clarify that deductions under section 174 are reduced by credits allowable under section 41 as under present law, not withstanding the delay in taking the credit into account created by this provision.

Similarly, research tax credits that are attributable to the period beginning October 1, 2000, and ending on September 30, 2001, may not be taken into account in determining any amount required to be paid for any purpose under the Internal Revenue Code prior to October 1, 2001. On or after October 1, 2001, such credits may be taken into account through the filing of an amended return, an application for expedited refund, an adjustment of estimated taxes, or other means that are allowed by the Code. Likewise, the prohibition on taking credits attributable to the period beginning on October 1, 2000, and ending on September 30, 2001, into account as payments prior to October 1, 2001, extends to the determination of any penalty or interest under the Code.

In extending the research credit, the conferees are concerned that the definition of qualified research be administered in a manner that is consistent with the intent Congress has expressed in enacting and extending the research credit. The conferees urge the Secretary to consider carefully the comments he has and may receive regarding the proposed regulations relating to the computation of the credit under section 41(c) and the definition of qualified research under section 41(d), particularly regarding the ''common knowledge'' standard. The conferees further note the rapid pace of technological advance, especially in service-related industries, and urge the Secretary to consider carefully the comments he has and may receive in promulgating regulations in connection with what constitutes ''internal use'' with regard to software expenditures. The conferees also observe that software research, that otherwise satisfies the requirements of section 41, which is undertaken to support the provision of a service, should not be deemed ''internal use'' solely because the business component involves the provision of a service.

The conferees wish to reaffirm that qualified research is research undertaken for the purpose of discovering new information which is technological in nature. For purposes of applying this definition, new information is information that is new to the taxpayer, is not freely available to the general public, and otherwise satisfies the requirements of section 41. Employing existing technologies in a particular field or relying on existing principles of engineering or science is qualified research, if such activities are otherwise undertaken for purposes of discovering information and satisfy the other requirements under section 41.

The conferees also are concerned about unnecessary and costly taxpayer record keeping burdens and reaffirm that eligibility for the credit is not intended to be contingent on meeting unreasonable record keeping requirements.

Effective date.—The extension of the research credit is effective for qualified research expenditures paid or incurred during the period July 1, 1999, through June 30, 2004. The increase in the credit rate under the alternative incremental research credit is effective for taxable years beginning after June 30, 1999.

C. Extend Exceptions under Subpart F for Active Financing Income (secs. 953 and 954 of the Code)

Present Law

Under the subpart F rules, 10–percent U.S. shareholders of a controlled foreign corporation (''CFC'') are subject to U.S. tax currently on certain income earned by the CFC, whether or not such income is distributed to the shareholders. The income subject to current inclusion under the subpart F rules includes, among other things, foreign personal holding company income and insurance income. In addition, 10–percent U.S. shareholders of a CFC are subject to current inclusion with respect to their shares of the CFC's foreign base company services income (i.e., income derived from services performed for a related person outside the country in which the CFC is organized).

Foreign personal holding company income generally consists of the following: (1) dividends, interest, royalties, rents, and annuities; (2) net gains from the sale or exchange of (a) property that gives rise to the preceding types of income, (b) property that does not give rise to income, and (c) interests in trusts, partnerships, and REMICs; (3) net gains from commodities transactions; (4) net gains from foreign currency transactions; (5) income that is equivalent to interest; (6) income from notional principal contracts; and (7) payments in lieu of dividends.

Insurance income subject to current inclusion under the subpart F rules includes any income of a CFC attributable to the issuing or reinsuring of any insurance or annuity contract in connection with risks located in a country other than the CFC's country of organization. Subpart F insurance income also includes income attributable to an insurance contract in connection with risks located within the CFC's country of organization, as the result of an arrangement under which another corporation receives a substantially equal amount of consideration for insurance of other-country risks. Investment income of a CFC that is allocable to any insurance or annuity contract related to risks located outside the CFC's country of organization is taxable as subpart F insurance income (Prop. Treas. Reg. sec. 1.953–1(a)).

Temporary exceptions from foreign personal holding company income, foreign base company services income, and insurance income apply for subpart F purposes for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business (so-called ''active financing income''). These exceptions are applicable only for taxable years beginning in 1999.[4]

[4] Temporary exceptions from the subpart F provisions for certain active financing income applied

Continued

With respect to income derived in the active conduct of a banking, financing, or similar business, a CFC is required to be predominantly engaged in such business and to conduct substantial activity with respect to such business in order to qualify for the exceptions. In addition, certain nexus requirements apply, which provide that income derived by a CFC or a qualified business unit (''QBU'') of a CFC from transactions with customers is eligible for the exceptions if, among other things, substantially all of the activities in connection with such transactions are conducted directly by the CFC or QBU in its home country, and such income is treated as earned by the CFC or QBU in its home country for purposes of such country's tax laws. Moreover, the exceptions apply to income derived from certain cross border transactions, provided that certain requirements are met. Additional exceptions from foreign personal holding company income apply for certain income derived by a securities dealer within the meaning of section 475 and for gain from the sale of active financing assets.

In the case of insurance, in addition to a temporary exception from foreign personal holding company income for certain income of a qualifying insurance company with respect to risks located within the CFC's country of creation or organization, certain temporary exceptions from insurance income and from foreign personal holding company income apply for certain income of a qualifying branch of a qualifying insurance company with respect to risks located within the home country of the branch, provided certain requirements are met under each of the exceptions. Further, additional temporary exceptions from insurance income and from foreign personal holding company income apply for certain income of certain CFCs or branches with respect to risks located in a country other than the United States, provided that the requirements for these exceptions are met.

House Bill

No provision, but H.R. 2923, as approved by the Committee on Ways and Means, extends for five years the present-law temporary exceptions from subpart F foreign personal holding company income, foreign base company services income, and insurance income for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business.

Effective date.—The provision is effective for taxable years of foreign corporations beginning after December 31, 1999, and before January 1, 2005, and for taxable years of U.S. shareholders with or within which such taxable years of such foreign corporations end.

Senate Amendment

No provision, but S. 1792, as passed by the Senate, extends for one year the present-law temporary exceptions from subpart F foreign personal holding company income, foreign base company services income, and insurance income for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business.

Effective date.—The provision is effective only for taxable years of foreign corporations beginning in 2000, and for taxable years of U.S. shareholders with or within which such taxable years of such foreign corporations end.

Conference Agreement

The conference agreement includes the provision in H.R. 2923 and S. 1792, with a modification to the effective date. The provision in the conference agreement extends for two years the present-law temporary exceptions from subpart F foreign personal holding company income, foreign base company services income, and insurance income for certain income that is derived in the active conduct of a banking, financing, or similar business, or in the conduct of an insurance business.

The conference agreement clarifies that if the temporary exception from subpart F insurance income does not apply for a taxable year beginning after December 31, 2001, section 953(a) is to be applied to such taxable year in the same manner as it would for a taxable year beginning in 1998 (i.e., under the law in effect before amendments to section 953(a) were made in 1998).[5] Thus, for future periods in which the temporary exception relating to insurance income is not in effect, the same-country exception from subpart F insurance income applies as under prior law.

Effective date.—The provision is effective for taxable years of foreign corporations beginning after December 31, 1999, and before January 1, 2002, and for taxable years of U.S. shareholders with or within which such taxable years of such foreign corporations end.

D. Extend Suspension of Net Income Limitation on Percentage Depletion from Marginal Oil and Gas Wells (sec. 613A of the Code)

Present Law

The Code permits taxpayers to recover their investments in oil and gas wells through depletion deductions. In the case of certain properties, the deductions may be determined using the percentage depletion method. Among the limitations that apply in calculating percentage depletion deductions is a restriction that, for oil and gas properties, the amount deducted may not exceed 100 percent of the net income from that property in any year (sec. 613(a)).

Special percentage depletion rules apply to oil and gas production from ''marginal'' properties (sec. 613A(c)(6)). Marginal production is defined as domestic crude oil and natural gas production from stripper well property or from property substantially all of the production from which during the calendar year is heavy oil. Stripper well property is property from which the average daily production is 15 barrel equivalents or less, determined by dividing the average daily production of domestic crude oil and domestic natural gas from producing wells on the property for the calendar year by the number of wells. Heavy oil is domestic crude oil with a weighted average gravity of 20 degrees API or less (corrected to 60 degrees Farenheit). Under one such special rule, the 100-percent-of-net-income limitation does not apply to domestic oil and gas production from marginal properties during taxable years beginning after December 31, 1997, and before January 1, 2000.

House Bill

No provision, but H.R. 2923, as approved by the Committee on Ways and Means, extends the present-law suspension of the 100–percent-of-net-income limitation with respect to oil and gas production from marginal wells to include taxable years beginning after December 31, 1999, and before January 1, 2005.

Senate Amendment

No provision, but S. 1792, as passed by the Senate, extends the present-law suspension of the 100–percent-of-net-income limitation with respect to oil and gas production from marginal wells to include taxable years beginning after December 31, 1999, and before January 1, 2001.

Conference Agreement

The conference agreement includes H.R. 2923 and S. 1792, with a modification providing an extension period through taxable years beginning before January 1, 2002.

E. Extend the Work Opportunity Tax Credit (sec. 51 of the Code)

Present Law

In general

The work opportunity tax credit (''WOTC''), which expired on June 30, 1999, was available on an elective basis for employers hiring individuals from one or more of eight targeted groups. The credit equals 40 percent (25 percent for employment of 400 hours or less) of qualified wages. Generally, qualified wages are wages attributable to service rendered by a member of a targeted group during the one-year period beginning with the day the individual began work for the employer.

The maximum credit per employee is $2,400 (40% of the first $6,000 of qualified first-year wages). With respect to qualified summer youth employees, the maximum credit is $1,200 (40 percent of the first $3,000 of qualified first-year wages).

The employer's deduction for wages is reduced by the amount of the credit.

Targeted groups eligible for the credit

The eight targeted groups are: (1) families eligible to receive benefits under the Temporary Assistance for Needy Families (TANF) Program; (2) high-risk youth; (3) qualified ex-felons; (4) vocational rehabilitation referrals; (5) qualified summer youth employees; (6) qualified veterans; (7) families receiving food stamps; and (8) persons receiving certain Supplemental Security Income (SSI) benefits.

Minimum employment period

No credit is allowed for wages paid to employees who work less than 120 hours in the first year of employment.

Expiration date

The credit is effective for wages paid or incurred to a qualified individual who began work for an employer before July 1, 1999.

House Bill

No provision. However, H.R. 2923, as approved by the Committee on Ways and Means, extends the work opportunity tax credit for 30 months (through December 31, 2001) and clarifies the definition of first year of employment for purposes of the WOTC. H.R. 2923 also directs the Secretary of the Treasury to expedite procedures to allow taxpayers to satisfy their WOTC filing requirements (e.g., Form 8850) by electronic means.

Effective date.—The provision is effective for wages paid or incurred to qualified individuals who begin work for the employer on or after July 1, 1999, and before January 1, 2002.

Senate Amendment

No provision. However, S. 1792, as passed by the Senate, extends the work opportunity tax credit for 18 months (through December 31, 2000) and clarifies the definition of first year of employment for purposes of the WOTC.

Effective date.—The provision is effective for wages paid or incurred to qualified individuals who begin work for the employer on or after July 1, 1999, and before January 1, 2001.

Conference Agreement

The conference agreement provides for a 30-month extension of the work opportunity

only for taxable years beginning in 1998. Those exceptions were extended and modified as part of the present-law provision.

[5] For the 1998 amendments, see the Tax and Trade Relief Extension Act of 1998, Division J, Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999, Pub. L. No. 105–277, sec. 1005(b), 112 Stat. 2681 (1998).

tax credit. The conference agreement also includes the clarification of the definition of first year of employment for purposes of the WOTC that is included in H.R. 2923 and S. 1792. Finally, the conferees also direct the Secretary of the Treasury to expedite the use of electronic filing of requests for certification under the credit. They believe that participation in the program by businesses should not be discouraged by the requirement that such forms (i.e., the Form 8850) be submitted in paper form.

Effective date.—The provision is effective for wages paid or incurred to qualified individuals who begin work for the employer on or after July 1, 1999, and before January 1, 2002.

F. Extend the Welfare-To-Work Tax Credit (sec. 51A of the Code)

Present Law

The Code provides to employers a tax credit on the first $20,000 of eligible wages paid to qualified long-term family assistance (AFDC or its successor program) recipients during the first two years of employment. The credit is 35 percent of the first $10,000 of eligible wages in the first year of employment and 50 percent of the first $10,000 of eligible wages in the second year of employment. The maximum credit is $8,500 per qualified employee.

Qualified long-term family assistance recipients are: (1) members of a family that has received family assistance for at least 18 consecutive months ending on the hiring date; (2) members of a family that has received family assistance for a total of at least 18 months (whether or not consecutive) after the date of enactment of this credit if they are hired within 2 years after the date that the 18-month total is reached; and (3) members of a family who are no longer eligible for family assistance because of either Federal or State time limits, if they are hired within 2 years after the Federal or State time limits made the family ineligible for family assistance.

Eligible wages include cash wages paid to an employee plus amounts paid by the employer for the following: (1) educational assistance excludable under a section 127 program (or that would be excludable but for the expiration of sec. 127); (2) health plan coverage for the employee, but not more than the applicable premium defined under section 4980B(f)(4); and (3) dependent care assistance excludable under section 129.

The welfare to work credit is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after January 1, 1998, and before July 1, 1999.

House Bill

No provision. However, H.R. 2923, as approved by the Committee on Ways and Means, extends the welfare-to-work tax credit for 30 months.

Effective date.—The provision extends the welfare-to-work credit effective for wages paid or incurred to a qualified individual who begins work for an employer on or after July 1, 1999, and before January 1, 2002.

Senate Amendment

No provision. However, S. 1792, as passed by the Senate, extends the welfare-to-work tax credit for 18 months.

Effective date.—The provision extends the welfare-to-work credit effective for wages paid or incurred to a qualified individual who begins work for an employer on or after July 1, 1999, and before January 1, 2001.

Conference Agreement

The conference agreement provides for a 30-month extension of the welfare-to-work tax credit.

Effective date.—The provision is effective for wages paid or incurred to a qualified individual who begins work for an employer on or after July 1, 1999, and before January 1, 2002.

G. Extend Exclusion for Employer-Provided Educational Assistance (sec. 127 of the Code)

Present Law

Educational expenses paid by an employer for the employer's employees are generally deductible to the employer.

Employer-paid educational expenses are excludable from the gross income and wages of an employee if provided under a section 127 educational assistance plan or if the expenses qualify as a working condition fringe benefit under section 132. Section 127 provides an exclusion of $5,250 annually for employer-provided educational assistance. The exclusion expired with respect to graduate courses June 30, 1996. With respect to undergraduate courses, the exclusion for employer-provided educational assistance expires with respect to courses beginning on or after June 1, 2000.

In order for the exclusion to apply, certain requirements must be satisfied. The educational assistance must be provided pursuant to a separate written plan of the employer. The educational assistance program must no discriminate in favor of highly compensated employees. In addition, not more than 5 percent of the amounts paid or incurred by the employer during the year for educational assistance under a qualified educational assistance plan can be provided for the class of individuals consisting of more than 5-percent owners of the employer (and their spouses and dependents).

Educational expenses that do not qualify for the section 127 exclusion may be excludable from income as a working condition fringe benefit.[6] In general, education qualifies as a working condition fringe benefit if the employee could have deducted the education expenses under section 162 if the employee paid for the education. In general, education expenses are deductible by an individual under section 162 if the education (1) maintains or improves a skill required in a trade or business currently engaged in by the taxpayer, or (2) meets the express requirements of the taxpayer's employer, applicable law or regulations imposed as a condition of continued employment. However, education expenses are generally not deductible if they relate to certain minimum educational requirements or to education or training that enables a taxpayer to begin working in a new trade or business.[7]

House Bill

No provision.

Senate Amendment

No provision. However, S. 1792 as passed by the Senate reinstates the exclusion for employer-provided educational assistance for graduate-level courses, and extends the exclusion, as applied to both undergraduate and graduate-level courses, through 2000. The provision in S. 1792 is effective with respect to undergraduate courses beginning after May 31, 2000, and before January 1, 2001. The provision is effective with respect to graduate-level courses beginning after December 31, 1999, and before January 1, 2001.

Conference Agreement

The conference agreement provides that the present-law exclusion for employer-provided educational assistance is extended through December 31, 2001.

Effective date.—The provision is effective with respect to courses beginning after May 31, 2000, and before January 1, 2002.

H. Extend and Modify Tax Credit for Electricity Produced by Wind and Closed-Loop Biomass Facilities (sec. 45 of the Code)

Present Law

An income tax credit is allowed for the production of electricity from either qualified wind energy or qualified ''closed-loop'' biomass facilities (sec. 45). The credit applies to electricity produced by a qualified wind energy facility placed in service after December 31, 1993, and before July 1, 1999, and to electricity produced by a qualified closed-loop biomass facility placed in service after December 31, 1992, and before July 1, 1999. The credit is allowable for production during the 10-year period after a facility is originally placed in service.

Closed-loop biomass is the use of plant matter, where the plants are grown for the sole purpose of being used to generate electricity. It does not include the use of waste materials (including, but not limited to, scrap wood, manure, and municipal or agricultural waste). The credit also is not available to taxpayers who use standing timber to produce electricity. In order to claim the credit, a taxpayer must own the facility and sell the electricity produced by the facility to an unrelated party.

House Bill

No provision.

Senate Amendment

No provision, but S. 1792, as passed by the Senate, extends the present-law tax credit for electricity produced by wind and closed-loop biomass for facilities placed in service after June 30, 1999, and before December 31, 2000. S. 1792 also modifies the tax credit to include electricity produced from poultry litter, for facilities placed in service after December 31, 1999, and before December 31, 2000. The credit further is expanded to include electricity produced from landfill gas, for electricity produced from facilities placed in service after December 31, 1999, and before December 31, 2000.

Finally, the credit is expanded to include electricity produced from certain other biomass (in addition to closed-loop biomass and poultry waste). This additional biomass is defined as solid, nonhazardous, cellulose waste material which is segregated from other waste materials and which is derived from forest resources, but not including old-growth timber. The term also includes urban sources such as waste pallets, crates, manufacturing and construction wood waste, and tree trimmings, or agricultural sources (including grain, orchard tree crops, vineyard legumes, sugar, and other crop by-products or residues. The term does not include unsegregated municipal solid waste or paper that commonly is recycled.

In the case of both closed-loop biomass and this additional biomass, the credit applies to electricity produced after December 31, 1999, from facilities that are placed in service before January 1, 2003 (including facilities placed in service before the date of enactment of this provision), and the credit is allowed for production attributable to biomass produced at facilities that are co-fired with coal.

Conference Agreement

The conference agreement includes S. 1792, with modifications. First, the extension is limited to electricity from facilities using present-law qualified sources (wind and closed-loop biomass) and from poultry waste facilities (placed in service after December

[6] These rules also apply in the event that section 127 expires and is not reinstated.

[7] In the case of an employee, education expenses (if not reimbursed by the employer) may be claimed as an itemized deduction only if such expenses, along with other miscellaneous deductions, exceed 2 percent of the taxpayer's AGI. The 2-percent floor limitation is disregarded in determining whether an item is excludable as a working condition fringe benefit.

31, 1999). Second, in the case of all three fuel sources, the extension is limited to facilities placed in service before January 1, 2002. Third, the conference agreement does not include the provisions of the Senate amendment allowing co-firing of closed-loop biomass facilities. Fourth, the conference agreement includes the provisions of the Senate amendment clarifying wind facilities eligible for the credit.

I. Extend Duty-Free Treatment Under Generalized System of Preferences (GSP)

Title V of the Trade Act of 1974, as amended, grants authority to the President to provide duty-free treatment on imports of eligible articles from designated beneficiary developing countries (BDCs), subject to certain conditions and limitations. To qualify for GSP privileges, each beneficiary country is subject to various mandatory and discretionary eligibility criteria. Import sensitive products are ineligible for GSP. Section 505 (a) of the Trade Act of 1974, as amended, provides that no duty-free treatment under Title V shall remain in effect after June 30, 1999.

House Bill

No provision.

Senate Amendment

No provision. The Senate amendment to H.R. 434, which passed the Senate on November 3, 1999, reauthorizes GSP retroactively for five years to terminate on June 30, 2004. It also provides that, notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, the entry (a) of any article to which duty-free treatment under Title V of the Trade Act of 1974 would have applied if such entry had been made on June 30, 1999, and (b) that was made after June 30, 1999, and before the date of enactment of this Act, shall be liquidated or reliquidated as free of duty and the Secretary of the Treasury shall refund any duty paid, upon proper request filed with the appropriate customs officer, within 180 days after the date of enactment of this Act.

Conference Agreement

The conference agreement would reauthorize the GSP program for 27 months, to expire on September 30, 2001. The proposal provides for refunds, upon request of the importer, of any duty paid between June 30, 1999 and the effective date of this Act. All entries between the effective date of this Act and September 30, 2001 would enter duty-free.

J. Extend Authority to Issue Qualified Zone Academy Bonds (sec. 1397E of the Code)

Present Law

Tax-exempt bonds

Interest on State and local governmental bonds generally is excluded from gross income for Federal income tax purposes if the proceeds of the bonds are used to finance direct activities of these governmental units, including the financing of public schools (sec. 103).

Qualified zone academy bonds

As an alternative to traditional tax-exempt bonds, certain States and local governments are given the authority to issue ''qualified zone academy bonds.'' A total of $400 million of qualified zone academy bonds is authorized to be issued in each of 1998 and 1999. The $400 million aggregate bond cap is allocated each year to the States according to their respective populations of individuals below the poverty line. Each State, in turn, allocates the credit to qualified zone academies within such State. A State may carry over any unused allocation into subsequent years.

Certain financial institutions that hold qualified zone academy bonds are entitled to a nonrefundable tax credit in an amount equal to a credit rate multiplied by the face amount of the bond (sec. 1397E). A taxpayer holding a qualified zone academy bond on the credit allowance date is entitled to a credit. The credit is includable in gross income (as if it were a taxable interest payment on the bond), and may be claimed against regular income tax and AMT liability.

The Treasury Department sets the credit rate at a rate estimated to allow issuance of qualified zone academy bonds without discount and without interest cost to the issuer. The maximum term of the bond is determined by the Treasury Department, so that the present value of the obligation to repay the bond is 50 percent of the face value of the bond.

''Qualified zone academy bonds'' are defined as any bond issued by a State or local government, provided that (1) at least 95 percent of the proceeds are used for the purpose of renovating, providing equipment to, developing course materials for use at, or training teachers and other school personnel in a ''qualified zone academy'' and (2) private entities have promised to contribute to the qualified zone academy certain equipment, technical assistance or training, employee services, or other property or services with a value equal to at least 10 percent of the bond proceeds.

A school is a ''qualified zone academy'' if (1) the school is a public school that provides education and training below the college level, (2) the school operates a special academic program in cooperation with businesses to enhance the academic curriculum and increase graduation and employment rates, and (3) either (a) the school is located in one of the 31 designated empowerment zones or one of the 95 enterprise communities designated under Code section 1391, or (b) it is reasonably expected that at least 35 percent of the students at the school will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

House Bill

No provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement authorizes up to $400 million of qualified zone academy bonds to be issued in each of calendar years 2000 and 2001. Unusued QZAB authority arising in 1998 and 1999 may be carried forward by the State or local government entity to which it is (or was) allocated for up to three years after the year in which the authority originally arose. Unused QZAB authority arising in 2000 and 2001 may be carried forward for two years after the year in which it arises. Each issuer is deemed to used the oldest QZAB authority which has been allocated to it first when new bonds are issued.

Effective date.—The provision is effective on the date of enactment.

K. Extend the Tax Credit for First-Time D.C. Homebuyers (sec. 1400C of the Code)

Present Law

In general

First-time homebuyers of a principal residence in the District of Columbia are eligible for a nonrefundable tax credit of up to $5,000 of the amount of the purchase price. The $5,000 maximum credit applies both to individuals and married couples. Married individuals filing separately can claim a maximum credit of $2,500 each. The credit phases out for individual taxpayers with adjusted gross income between $70,000 and $90,000 ($110,000–$130,000 for joint filers). For purposes of eligibility, ''first-time homebuyer'' means any individual if such individual did not have a present ownership interest in a principal residence in the District of Columbia in the one year period ending on the date of the purchase of the residence to which the credit applies.

Expiration date

The credit is scheduled to expire for residences purchased after December 31, 2000.

House Bill

No provision.

Senate Amendment

No provision.

Conference Agreement

The conference agreement provides for a one-year extension of the tax credit for first-time D.C. homebuyers, so that it applies to residences purchased on or before December 31, 2001.

Effective date.—The provision is effective for residences purchased after December 31, 2000 and before January 1, 2002.

L. Extend Expensing of Environmental Remediation Expenditures (sec. 198 of the Code)

Present Law

Taxpayers can elect to treat certain environmental remediation expenditures that would otherwise be chargeable to capital account as deductible in the year paid or incurred (sec. 198). The deduction applies for both regular and alternative minimum tax purposes. The expenditure must be incurred in connection with the abatement or control of hazardous substances at a qualified contaminated site.

A ''qualified contaminated site'' generally is any property that (1) is held for use in a trade or business, for the production of income, or as inventory; (2) is certified by the appropriate State environmental agency to be located within a targeted area; and (3) contains (or potentially contains) a hazardous substance (so-called ''brownfields''). Targeted areas are defined as: (1) empowerment zones and enterprise communities as designated under present law; (2) sites announced before February, 1997, as being subject to one of the 76 Environmental Protection Agency (''EPA'') Brownfields Pilots; (3) any population census tract with a poverty rate of 20 percent or more; and (4) certain industrial and commercial areas that are adjacent to tracts described in (3) above. However, sites that are identified on the national priorities list under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 cannot qualify as targeted areas.

Eligible expenditures are those paid or incurred before January 1, 2001.

House Bill

No provision.

Senate Amendment

No provision. However, S. 1792, as passed by the Senate, eliminates the targeted area requirement, thereby, expanding eligible sites to include any site containing (or potentially containing) a hazardous substance that is certified by the appropriate State environmental agency, but not those sites that are identified on the national priorities list under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

Effective date.—The provision to expand the class of eligible sites is effective for expenditures paid or incurred after December 31, 1999.

Conference Agreement

The conference agreement extends present-law expiration date for sec. 198 to include those expenditures paid or incurred before January 1, 2002.

Effective date.—The provision to extend the expiration date is effective upon the date of enactment.

M. TEMPORARY INCREASE IN AMOUNT OF RUM EXCISE TAX THAT IS COVERED OVER TO PUERTO RICO AND THE U.S. VIRGIN ISLANDS (SEC. 7652 OF THE CODE)

Present Law

A $13.50 per proof gallon[8] excise tax is imposed on distilled spirits produced in or imported (or brought) into the United States. The excise tax does not apply to distilled spirits that are exported from the United States or to distilled spirits that are consumed in U.S. possessions (e.g., Puerto Rico and the Virgin Islands).

The Internal Revenue Code provides for coverover (payment) of $10.50 per proof gallon of the excise tax imposed on rum imported (or brought) into the United States (without regard to the country of origin) to Puerto Rico and the Virgin Islands. During the five-year period ending on September 30, 1998, the amount covered over was $11.30 per proof gallon. This temporary increase was enacted in 1993 as transitional relief accompanying a reduction in certain tax benefits for corporations operating in Puerto Rico and the Virgin Islands.

Amounts covered over to Puerto Rico and the Virgin Islands are deposited into the treasuries of the two possessions for use as those possessions determine.

House Bill

No provision, but H.R. 984, as approved by the Committee on Ways and Means, increases from $10.50 to $13.50 per proof gallon the amount of excise taxes collected on rum brought into the United States that is covered over to Puerto Rico and the U.S. Virgin Islands. H.R. 984 further provides that $0.50 per proof gallon of the amount covered over to Puerto Rico will be transferred to the Puerto Rico Conservation Trust, a private, non-profit section 501(c)(3) organization operating in Puerto Rico.

Effective date.—The provision is effective for excise taxes collected on rum imported or brought into the United States after June 30, 1999 and before October 1, 1999.

Senate Amendment

No provision, but H.R. 434, as passed by the Senate, is the same as the House bill.

Conference Agreement

The conference agreement reinstates the rum excise tax coverover at a rate of $13.25 per proof gallon during the period from July 1, 1999, through December 31, 2001.

The conference agreement includes a special rule for payment of the $2.75 per proof gallon increase in the coverover rate for Puerto Rico and the Virgin Islands. The special rule applies to payments that otherwise would be made in Fiscal Year 2000. Under this special payment rule, amounts attributable to the increase in the coverover rate that would have been transferred to Puerto Rico and the Virgin Islands after June 30, 1999 and before the date of enactment, will be paid on the date which is 15 days after the date of enactment. However, the total amount of this initial payment (aggregated for both possessions) may not exceed $20 million.

The next payment to Puerto Rico and the Virgin Islands with respect to the $2.75 increase in the coverover rate will be made on October 1, 2000. This payment will equal the total amount attributable to the increase that otherwise would have been transferred to Puerto Rico and the Virgin Islands before October 1, 2000 (less the payment of up to $20 million made 15 days after the date of enactment).

Payments for the remainder of the period through December 31, 2001 will be paid as provided under the present-law rules for the $10.50 per proof gallon coverover rate.

The special payment rule does not affect payments to Puerto Rico and the Virgin Islands with respect to the present-law $10.50 per proof gallon coverover rate.

Finally, the conferees note that H.R. 984 and H.R. 434, described above, will be considered by the Congress next year. The conferees intend that the special payment rule for Fiscal Year 2000 will be reviewed when that legislation is considered, and that to the extent possible, the delayed payments will be accelerated, or interest on delayed amounts will be provided.

Effective date.—The provision is effective on July 1, 1999.

II. OTHER TIME-SENSITIVE PROVISIONS

A. Prohibit Disclosure of APAs and APA Background Files (secs. 6103 and 6110 of the Code)

Present Law

Section 6103

Under section 6103, returns and return information are confidential and cannot be disclosed unless authorized by the Internal Revenue Code.

The Code defines return information broadly. Return information includes:

A taxpayer's identity, the nature, source or amount of income, payments, receipts, deductions, exemptions, credits, assets, liabilities, net worth, tax liability, tax withheld, deficiencies, overassessments, or tax payments;

Whether the taxpayer's return was, is being, or will be examined or subject to other investigation or processing; or

Any other data, received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, of liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense.[9]

Section 6110 and the Freedom of Information Act

With certain exceptions, section 6110 makes the text of any written determination the IRS issues available for public inspection. A written determination is any ruling, determination letter, technical advice memorandum, or Chief Counsel advice. Once the IRS makes the written determination publicly available, the background file documents associated with such written determination are available for public inspection upon written request. The Code defines ''background file documents'' as any written material submitted in support of the request. Background file documents also include any communications between the IRS and persons outside the IRS concerning such written determination that occur before the IRS issues the determination.

Before making them available for public inspection, section 6110 requires the IRS to delete specific categories of sensitive information from the written determination and background file documents.[10] It also provides judicial and administrative procedures to resolve disputes over the scope of the information the IRS will disclose. In addition, Congress has also wholly exempted certain matters from section 6110's public disclosure requirements.[11] Any part of a written determination or background file that is not disclosed under section 6110 constitutes ''return information.''[12]

The Freedom of Information Act (FOIA) lists categories of information that a federal agency must make available for public inspection.[13] It establishes a presumption that agency records are accessible to the public. The FOIA, however, also provides nine exemptions from public disclosure. One of those exemptions is for matters specifically exempted from disclosure by a statute other than the FOIA if the exempting statute meets certain requirements.[14] Section 6103 qualifies as an exempting statute under this FOIA provision. Thus, returns and return information that section 6103 deems confidential are exempt from disclosure under the FOIA.

Section 6110 is the exclusive means for the public to view IRS written determinations.[15] If section 6110 covers the written determination, then the public cannot use the FOIA to obtain that determination.

Advance Pricing Agreements

The Advanced Pricing Agreement (''APA'') program is an alternative dispute resolution program conducted by the IRS, which resolves international transfer pricing issues prior to the filing of the corporate tax return. Specifically, an APA is an advance agreement establishing an approved transfer pricing methodology entered into among the taxpayer, the IRS, and a foreign tax authority. The IRS and the foreign tax authority generally agree to accept the results of such approved methodology. Alternatively, an APA also may be negotiated between just the taxpayer and the IRS; such an APA establishes an approved transfer pricing methodology for U.S. tax purposes. The APA program focuses on identifying the appropriate transfer pricing methodology; it does not determine a taxpayer's tax liability. Taxpayers voluntarily participate in the program.

To resolve the transfer pricing issues, the taxpayer submits detailed and confidential financial information, business plans and projections to the IRS for consideration. Resolution involves an extensive analysis of the taxpayer's functions and risks. Since its

[8] A proof gallon is a liquid gallon consisting of 50 percent alcohol.

[9] Sec. 6103(b)(2)(A).

[10] Sec. 6110(c) provides for the deletion of identifying information, trade secrets, confidential commercial and financial information and other material.

[11] Sec. 6110(l).

[12] Sec. 6103(b)(2)(B) (''The term 'return information' means . . . any part of any written determination or any background file document relating to such written determination (as such terms are defined in section 6110(b)) which is not open to public inspection under section 6110'').

[13] Unless published promptly and offered for sale, an agency must provide for public inspection and copying: (1) final opinions as well as orders made in the adjudication of cases; (2) statements of policy and interpretations not published in the Federal Register; (3) administrative staff manuals and instructions to staff that affect a member of the public; and (4) agency records which have been or the agency expects to be, the subject of repetitive FOIA requests. 5 U.S.C. sec. 552(a)(2). An agency must also publish in the Federal Register: the organizational structure of the agency and procedures for obtaining information under the FOIA; statements describing the functions of the agency and all formal and informal procedures; rules of procedure, descriptions of forms and statements describing all papers, reports and examinations; rules of general applicability and statements of general policy; and amendments, revisions and repeals of the foregoing. 5 U.S.C. sec. 552(a)(1). All other agency records can be sought by FOIA request; however, some records may be exempt from disclosure.

[14] 14. Exemption 3 of the FOIA provides that an agency is not required to disclose matters that are: (3) specifically exempted from disclosure by statute (other than section 552b of this title) provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld; * * * 5 U.S.C. §552(b)(3).

[15] Sec. 6110(m).

inception in 1991, the APA program has resolved more than 180 APAs, and approximately 195 APA requests are pending.

Currently pending in the U.S. District Court for the District of Columbia are three consolidated lawsuits asserting that APAs are subject to public disclosure under either section 6110 or the FOIA.[16] Prior to this litigation and since the inception of the APA program, the IRS held the position that APAs were confidential return information protected from disclosure by section 6103.[17] On January 11, 1999, the IRS conceded that APAs are ''rulings'' and therefore are ''written determinations'' for purposes of section 6110.[18] Although the court has not yet issued a ruling in the case, the IRS announced its plan to publicly release both existing and future APAs. The IRS then transmitted existing APAs to the respective taxpayers with proposed deletions. It has received comments from some of the affected taxpayers. Where appropriate, foreign tax authorities have also received copies of the relevant APAs for comment on the proposed deletions. No APAs have yet been released to the public.

Some taxpayers assert that the IRS erred in adopting the position that APAs are subject to section 6110 public disclosure. Several have sought to participate as amici in the lawsuit to block the release of APAs. They are concerned that release under section 6110 could expose them to expensive litigation to defend the deletion of the confidential information from their APAs. They are also concerned that the section 6110 procedures are insufficient to protect the confidentiality of their trade secrets and other financial and commercial information.

House Bill

No provision, but H.R. 2923, as approved by the Committee on Ways and Means, amends section 6103 to provide that APAs and related background information are confidential return information under section 6103. Related background information is meant to include: the request for an APA, any material submitted in support of the request, and any communication (written or otherwise) prepared or received by the Secretary in connection with an APA, regardless of when such communication is prepared or received. Protection is not limited to agreements actually executed; it includes material received and generated in the APA process that does not result in an executed agreement.

Further, APAs and related background information are not ''written determinations'' as that term is defined in section 6110. Therefore, the public inspection requirements of section 6110 do not apply to APAs and related background information. A document's incorporation in a background file, however, is not intended to be grounds for not disclosing an otherwise disclosable document from a source other than a background file.

H.R. 2923 requires that the Treasury Department prepare and publish an annual report on the status of APAs. The annual report is to contain the following information:

Information about the structure, composition, and operation of the APA program office;

A copy of each current model APA;

Statistics regarding the amount of time to complete new and renewal APAs;

The number of APA applications filed during such year;

The number of APAs executed to date and for the year;

The number of APA renewals issued to date and for the year;

The number of pending APA requests;

The number of pending APA renewals;

The number of APAs executed and pending (including renewals and renewal requests) that are unilateral, bilateral and multilateral, respectively;

The number of APAs revoked or canceled, and the number of withdrawals from the APA program, to date and for the year;

The number of finalized new APAs and renewals by industry;[19] and

General descriptions of:

the nature of the relationships between the related organizations, trades, or businesses covered by APAs;

the related organizations, trades, or businesses whose prices or results are tested to determine compliance with the transfer pricing methodology prescribed in the APA;

the covered transactions and the functions performed and risks assumed by the related organizations, trades or businesses involved;

methodologies used to evaluate tested parties and transactions and the circumstances leading to the use of those methodologies;

critical assumptions;

sources of comparables;

comparable selection criteria and the rationale used in determining such criteria;

the nature of adjustments to comparables and/or tested parties;

the nature of any range agreed to, including information such as whether no range was used and why, whether an inter-quartile range was used, or whether there was a statistical narrowing of the comparables;

adjustment mechanisms provided to rectify results that fall outside of the agreed upon APA range;

the various term lengths for APAs, including rollback years, and the number of APAs with each such term length;

the nature of documentation required; and

approaches for sharing of currency or other risks.

In addition, H.R. 2923 requires the IRS to describe, in each annual report, its efforts to ensure compliance with existing APA agreements. The first report is to cover the period January 1, 1991, through the calendar year including the date of enactment. The Treasury Department cannot include any information in the report which would have been deleted under section 6110(c) if the report were a written determination as defined in section 6110. Additionally, the report cannot include any information which can be associated with or otherwise identify, directly or indirectly, a particular taxpayer. The Secretary is expected to obtain input from taxpayers to ensure proper protection of taxpayer information and, if necessary, utilize its regulatory authority to implement appropriate processes for obtaining this input. For purposes of section 6103, the report requirement is treated as part of Title 26.

While H.R. 2923 statutorily requires an annual report, it is not intended to discourage the Treasury Department from issuing other forms of guidance, such as regulations or revenue rulings, consistent with the confidentiality provisions of the Code.

Effective date.—The provision is effective on the date of enactment; accordingly, no APAs, regardless of whether executed before or after enactment, or related background file documents, can be released to the public after the date of enactment. It requires the Treasury Department to publish the first annual report no later than March 30, 2000.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes H.R. 2923.

B. Authority to Postpone Certain Tax-Related Deadlines by Reason of Year 2000 Failures

Present Law

There are no specific provisions in present law that would permit the Secretary of the Treasury to postpone tax-related deadlines by reason of Year 2000 (also known as ''Y2K'') failures. The Secretary is, however, permitted to postpone tax-related deadlines for other reasons. For example, the Secretary may specify that certain deadlines are postponed for a period of up to 90 days in the case of a taxpayer determined to be affected by a Presidentially declared disaster. The deadlines that may be postponed are the same as are postponed by reason of service in a combat zone. The provision does not apply for purposes of determining interest on any overpayment or underpayment.

The suspension of time applies to the following acts: (1) filing any return of income, estate, or gift tax (except employment and withholding taxes); (2) payment of any income, estate, or gift tax (except employment and withholding taxes); (3) filing a petition with the Tax Court for a redetermination of deficiency, or for review of a decision rendered by the Tax Court; (4) allowance of a credit or refund of any tax; (5) filing a claim for credit or refund of any tax; (6) bringing suit upon any such claim for credit or refund; (7) assessment of any tax; (8) giving or making any notice or demand for payment of any tax, or with respect to any liability to the United States in respect of any tax; (9) collection of the amount of any liability in respect of any tax; (10) bringing suit by the United States in respect of any liability in respect of any tax; and (11) any other act required or permitted under the internal revenue laws specified in regulations prescribed under section 7508 by the Secretary.

House Bill

No provision, but H.R. 2923, as approved by the Committee on Ways and Means, contains a provision permitting the Secretary to postpone, on a taxpayer-by-taxpayer basis, certain tax-related deadlines for a period of up to 90 days in the case of a taxpayer that the Secretary determines to have been affected by an actual Y2K related failure. In order to be eligible for relief, taxpayers must have made good faith, reasonable efforts to avoid any Y2K related failures. The relief will be similar to that granted under the Presidentially declared disaster and combat zone provisions, except that employment and withholding taxes also are eligible for relief. The relief will permit the abatement of both penalties and interest.

The relief may apply to the following acts: (1) filing of any return of income, estate, or gift tax, including employment and withholding taxes; (2) payment of any income, estate, or gift tax, including employment and withholding taxes; (3) filing a petition with the Tax Court; (4) allowance of a credit or refund of any tax; (5) filing a claim for credit or refund of any tax; (6) bringing suit upon any such claim for credit or refund; (7) assessment of any tax; (8) giving or making any notice or demand for payment of any

[16] BNA v. IRS, Nos. 96–376, 96–2820, and 96–1473 (D.D.C.). The Bureau of National Affairs, Inc. (BNA) publishes matters of interest for use by its subscribers. BNA contends that APAs are not return information as they are prospective in application. Thus at the time they are entered into they do not relate to ''the determination of the existence, or possible existence, of liability or amount thereof * * *''

[17] The IRS contended that information received or generated as part of the APA process pertains to a taxpayer's liability and therefore was return information as defined in sec. 6103(b)(2)(A). Thus, the information was subject to section 6103's restrictions on the dissemination of returns and return information. Rev. Proc. 91–22, sec. 11, 1991–1 C.B. 526, 534 and Rev. Proc. 96–53, sec. 12, 1996–2 C.B. 375, 386.

[18] IR 1999–05.

[19] This information was previously released in IRS Publication 3218, ''IRS Report on Application and Administration of I.R.C. Section 482.''

tax, or with respect to any liability to the United States in respect of any tax; (9) collection of the amount of any liability in respect of any tax; (10) bringing suit by the United States in respect of any liability in respect of any tax; and (11) any other act required or permitted under the internal revenue laws specified or prescribed by the Secretary. The provision is effective on the date of enactment.

Senate Amendment

No provision.

Conference Agreement

The conference agreement includes the provision in H.R. 2923.

C. Add Certain Vaccines Against Streptococcus Pneumoniae to the List of Taxable Vaccines (secs. 4131 and 4132 of the Code)

Present Law

A manufacturer's excise tax is imposed at the rate of 75 cents per dose (sec. 4131) on the following vaccines recommended for routine administration to children: diphtheria, pertussis, tetanus, measles, mumps, rubella, polio, HIB (haemophilus influenza type B), hepatitis B, varicella (chicken pox), and rotavirus gastroenteritis. The tax applied to any vaccine that is a combination of vaccine components equals 75 cents times the number of components in the combined vaccine.

Amounts equal to net revenues from this excise tax are deposited in the Vaccine Injury Compensation Trust Fund (''Vaccine Trust Fund'') to finance compensation awards under the Federal Vaccine Injury Compensation Program for individuals who suffer certain injuries following administration of the taxable vaccines. This program provides a substitute Federal, ''no fault'' insurance system for the State-law tort and private liability insurance systems otherwise applicable to vaccine manufacturers and physicians. All persons immunized after September 30, 1988, with covered vaccines must pursue compensation under this Federal program before bringing civil tort actions under State law.

House Bill

No provision. However, H.R. 2923, as approved by the Committee on Ways and Means, adds any conjugate vaccine against streptococcus pneumoniae to the list of taxable vaccines. The bill also changes an incorrect effective date enacted in Public Law 105–277 and makes certain other conforming amendments to expenditure purposes to enable certain payments to be made from the Trust Fund.

In addition, the bill directs the General Accounting Office (''GAO'') to report to the House Committee on Ways and Means and the Senate Committee on Finance on the operation and management of expenditures from the Vaccine Trust Fund and to advise the Committees on the adequacy of the Vaccine Trust Fund to meet future claims under the Federal Vaccine Injury Compensation Program. The GAO is directed to report its findings to the House Committee on Ways and Means and the Senate Committee on Finance not later than December 31, 1999.

Effective date.—The provision is effective for vaccine purchases beginning on the day after the date on which the Centers for Disease Control make final recommendation for routine administration of conjugated streptococcus pneumoniae vaccines to children.

Senate Amendment

No provision. However, S. 1792, as passed by the Senate, contains a provision identical to that of H.R. 2923 except that S. 1792 directs the GAO to report its findings to the House Committee on Ways and Means and the Senate Committee on Finance by January 31, 2000.

Effective date.—The provision is effective for vaccine purchases beginning on the day after the date on which the Centers for Disease Control make final recommendation for routine administration of conjugated streptococcus pneumoniae vaccines to children. The addition of conjugate streptococcus pneumoniae vaccines to the list of taxable vaccines is contingent upon the inclusion in this legislation of the modifications to Public Law 105–277.

Conference Agreement

The conference agreement includes the provision of H.R. 2923 and S. 1792 in adding any conjugate vaccine against streptococcus pneumoniae to the list of taxable vaccines. In addition, the conference agreement follows H.R. 2923 and S. 1792 by changing the effective date enacted in Public Law 105–277 and certain other conforming amendments to expenditure purposes to enable certain payments to be made from the Trust Fund.

The conference report follows S. 1792 by directing that the GAO report its findings to the House Committee on Ways and Means and the Senate Committee on Finance not later than January 31, 2000.

Effective date.—The provision is effective for vaccine sales beginning on the day after the date of enactment. No floor stocks tax is to be collected for amounts held for sale on that date. For sales on or before that date for which delivery is made after such date, the delivery date is deemed to be the sale date. The addition of conjugate streptococcus pneumoniae vaccines to the list of taxable vaccines is contingent upon the inclusion in this legislation of the modifications to Public Law 105–277.

D. Delay Requirement that Registered Motor Fuels Terminals Offer Dyed Fuel as a Condition of Registration (sec. 4121 of the Code)

Present Law

Excise taxes are imposed on highway motor fuels, including gasoline, diesel fuel, and kerosene, to finance the Highway Trust Fund programs. Subject to limited exceptions, these taxes are imposed on all such fuels when they are removed from registered pipeline or barge terminal facilities, with any tax-exemptions being accomplished by means of refunds to consumers of the fuel.[20] One such exception allows removal of diesel fuel without payment of tax if the fuel is destined for a nontaxable use (e.g., use as heating oil) and is indelibly dyed.

Terminal facilities are not permitted to receive and store non-tax-paid motor fuels unless they are registered with the Internal Revenue Service. Under present law, a prerequisite to registration is that if the terminal offers for sale diesel fuel, it must offer both dyed and undyed diesel fuel. Similarly, if the terminal offers for sale kerosene, it must offer both dyed and undyed kerosene. This ''dyed-fuel mandate'' was enacted in 1997, to be effective on July 1, 1998. Subsequently, the effective date was delayed until July 1, 2000.

House Bill

No provision.

Senate Amendment

No provision, but S. 1792, as passed by the Senate, delays the effective date of the dyed-fuel mandate for an additional six months, through December 31, 2000. No other changes are made to the present highway motor fuels excise tax rules.

Conference Agreement

The conference agreement includes S. 1792 with a modification delaying the effective date of the dyeing mandate until January 1, 2002.

E. Provide That Federal Production Payments to Farmers Are Taxable in the Year Received

Present Law

A taxpayer generally is required to include an item in income no later than the time of its actual or constructive receipt, unless such amount properly is accounted for in a different period under the taxpayer's method of accounting. If a taxpayer has an unrestricted right to demand the payment of an amount, the taxpayer is in constructive receipt of that amount whether or not the taxpayer makes the demand and actually receives the payment.

The Federal Agriculture Improvement and Reform Act of 1996 (the ''FAIR Act'') provides for production flexibility contracts between certain eligible owners and producers and the Secretary of Agriculture. These contracts generally cover crop years from 1996 through 2002. Annual payments are made under such contracts at specific times during the Federal government's fiscal year. Section 112(d)(2) of the FAIR Act provides that one-half of each annual payment is to be made on either December 15 or January 15 of the fiscal year, at the option of the recipient.[21] The remaining one-half of the annual payment must be made no later than September 30 of the fiscal year. The Emergency Farm Financial Relief Act of 1998 added section 112(d)(3) to the FAIR Act which provides that all payments for fiscal year 1999 are to be paid at such time or times during fiscal year 1999 as the recipient may specify. Thus, the one-half of the annual amount that would otherwise be required to be paid no later than September 30, 1999 can be specified for payment in calendar year 1998.

These options potentially would have resulted in the constructive receipt (and thus inclusion in income) of the payments to which they relate at the time they could have been exercised, whether or not they were in fact exercised. However, section 2012 of the Tax and Trade Relief Extension Act of 1998 provided that the time a production flexibility contract payment under the FAIR Act properly is includible in income is to be determined without regard to either option, effective for production flexibility contract payments made under the FAIR Act in taxable years ending after December 31, 1995.

House Bill

No provision. However, the conference agreement to H.R. 2488 includes a provision to disregard any unexercised option to accelerate the receipt of any payment under a production flexibility contract which is payable under the FAIR Act, as in effect on the date of enactment of the provision, in determining the taxable year in which such payment is properly included in gross income. Options to accelerate payments that are enacted in the future are covered by this rule, providing the payment to which they relate is mandated by the FAIR Act as in effect on the date of enactment of this Act.

The provision in H.R. 2488 does not delay the inclusion of any amount in gross income beyond the taxable period in which the amount is received.

Effective date.—The provision in H.R. 2488 is effective on the date of enactment.

Senate Amendment

No provision.

[20] Tax is imposed before that point if the motor fuel is transferred (other than in bulk) from a refinery or if the fuel is sold to an unregistered party while still held in the refinery or bulk distribution system (e.g., in a pipeline or terminal facility).

[21] This rule applies to fiscal years after 1996. For fiscal year 1996, this payment was to be made not later than 30 days after the production flexibility contract was entered into.

Conference Agreement

The conference agreement includes the provision in the conference agreement to H.R. 2488.

III. REVENUE OFFSET PROVISIONS

A. Modification of Individual Estimated Tax Safe Harbor (sec. 6654 of the Code)

Present Law

Under present law, an individual taxpayer generally is subject to an addition to tax for any underpayment of estimated tax. An individual generally does not have an underpayment of estimated tax if he or she makes timely estimated tax payments at least equal to: (1) 90 percent of the tax shown on the current year's return or (2) 100 percent of the prior year's tax. For taxpayers with a prior year's AGI above $150,000,[22] however, the rule that allows payment of 100 percent of prior year's tax is modified. Those taxpayers with AGI above $150,000 generally must make estimated payments based on either (1) 90 percent of the tax shown on the current year's return or (2) 110 percent of the prior year's tax.

For taxpayers with a prior year's AGI above $150,000, the prior year's tax safe harbor is modified for estimated tax payments made for taxable years through 2002. For such taxpayers making estimated tax payments based on prior year's tax, payments must be made based on 105 percent of prior year's tax for taxable years beginning in 1999, 106 percent of prior year's tax for taxable years beginning in 2000 and 2001, and 112 percent of prior year's tax for taxable years beginning in 2002.

House Bill

No provision, however H.R. 2923, as approved by the Committee on Ways and Means, provides that taxpayers with prior year's AGI above $150,000 who make estimated tax payments based on prior year's tax must do so based on 108.5 percent of prior year's tax for estimated tax payments made for taxable year 2000.

Effective date.—The provision is effective for estimated payments made for taxable years beginning after December 31, 1999, and before January 1, 2001.

Senate Amendment

No provision, however, S. 1792, as passed by the Senate, provides that for taxable years taxpayers with prior year's AGI above $150,000 who make estimated tax payments based on prior year's tax must do so based on 110.5 percent of prior year's tax for estimated tax payments based on prior year's tax must do so based on 112 percent of prior year's tax for estimated tax payments made for taxable year 2004.

Effective date.—The provision is effective for estimated payments made for taxable years beginning after December 31, 1999, and before January 1, 2001.

Conference Agreement

The conference agreement includes the provision in H.R. 2923 and the provision in S. 1792 with modifications. Taxpayers with prior year's AGI above $150,000 who make estimated tax payments based on prior year's tax must do so based on 108.6 percent of prior year's tax for estimated tax payments made for taxable year 2000. Taxpayers with prior year's AGI above $150,000 who make estimated tax payments based on prior year's tax must do so based on 110 percent of prior year's tax for estimated tax payments made for taxable year 2001. The modified safe harbor percentage is not changed for estimated tax payments made for any taxable years other than 2000 and 2001.

Effective date.—The provision is effective for estimated tax payments made for taxable years beginning after December 31, 1999, and before January 1, 2002.

B. Clarify the Tax Treatment of Income and Losses on Derivatives (sec. 1221 of the Code)

Present Law

Capital gain treatment applies to gain on the sale or exchange of a capital asset. Capital assets include property other than (1) stock in trade or other types of assets includible in inventory, (2) property used in a trade or business that is real property or property subject to depreciation, (3) accounts or notes receivable acquired in the ordinary course of a trade or business, (4) certain copyrights (or similar property), and (5) U.S. government publications. Gain or loss on such assets generally is treated as ordinary, rather than capital, gain or loss. Certain other Code sections also treat gains or losses as ordinary. For example, the gains or losses of securities dealers or certain electing commodities dealers or electing traders in securities or commodities that are subject to ''mark-to-market'' accounting are treated as ordinary (sec. 475).

Treasury regulations (which were finalized in 1994) require ordinary character treatment for most business hedges and provide timing rules requiring that gains or losses on hedging transactions be taken into account in a manner that matches the income or loss from the hedged item or items. The regulations apply to hedges that meet a standard of ''risk reduction'' with respect to ordinary property held (or to be held) or certain liabilities incurred (or to be incurred) by the taxpayer and that meet certain identification and other requirements (Treas. Reg. sec. 1.1221–2).

House Bill

No provision.

Senate Amendment

No provision, but S. 1792, as passed by the Senate, adds three categories to the list of assets the gain or loss on which is treated as ordinary (sec. 1221). The new categories are: (1) commodities derivative financial instruments held by commodities derivatives dealers; (2) hedging transactions; and (3) supplies of a type regularly consumed by the taxpayer in the ordinary course of a taxpayer's trade or business. In defining a hedging transaction, S. 1792 generally codifies the approach taken by the Treasury regulations, but modifies the rules. The ''risk reduction'' standard of the regulations is broadened to ''risk management'' with respect to ordinary property held (or to be held) or certain liabilities incurred (or to be incurred), and S. 1792 provides that the definition of a hedging transaction includes a transaction entered into primarily to manage such other risks as the Secretary may prescribe in regulations.

Effective date.—The provision in S. 1792 is effective for any instrument held, acquired or entered into, any transaction entered into, and supplies held or acquired on or after the date of enactment.

Conference Agreement

The conference agreement includes the provision in S. 1792.

C. Expand Reporting of Cancellation of Indebtedness Income (sec. 6050P of the Code)

Present Law

Under section 61(a)(12), a taxpayer's gross income includes income from the discharge of indebtedness. Section 6050P requires ''applicable entities'' to file information returns with the Internal Revenue Service (IRS) regarding any discharge of indebtedness of $600 or more.

The information return must set forth the name, address, and taxpayer identification number of the person whose debt was discharged, the amount of debt discharged, the date on which the debt was discharged, and any other information that the IRS requires to be provided. The information return must be filed in the manner and at the time specified by the IRS. The same information also must be provided to the person whose debt is discharged by January 31 of the year following the discharge.

''Applicable entities'' include: (1) the Federal Deposit Insurance Corporation (FDIC), the Resolution Trust Corporation (RTC), the National Credit Union Administration, and any successor or subunit of any of them; (2) any financial institution (as described in sec. 581 (relating to banks) or sec. 591(a) (relating to savings institutions)); (3) any credit union; (4) any corporation that is a direct or indirect subsidiary of an entity described in (2) or (3) which, by virtue of being affiliated with such entity, is subject to supervision and examination by a Federal or State agency regulating such entities; and (5) an executive, judicial, or legislative agency (as defined in 31 U.S.C. sec. 3701(a)(4)).

Failures to file correct information returns with the IRS or to furnish statements to taxpayers with respect to these discharges of indebtedness are subject to the same general penalty that is imposed with respect to failures to provide other types of information returns. Accordingly, the penalty for failure to furnish statements to taxpayers is generally $50 per failure, subject to a maximum of $100,000 for any calendar year. These penalties are not applicable if the failure is due to reasonable cause and not to willful neglect.

House Bill

No provision.

Senate Amendment

No provision, but S.1792, as passed by the Senate, requires information reporting on indebtedness discharged by any organization a significant trade or business of which is the lending of money (such as finance companies and credit card companies whether or not affiliated with financial institutions).

Effective date.—The provision is effective with respect to discharges of indebtedness after December 31, 1999.

Conference Agreement

The conference agreement includes the provision in S. 1792.

D. Limit Conversion of Character of Income From Constructive Ownership Transactions (new sec. 1260 of the Code)

Present Law

The maximum individual income tax rate on ordinary income and short-term capital gain is 39.6 percent, while the maximum individual income tax rate on long-term capital gain generally is 20 percent. Long-term capital gain means gain from the sale or exchange of a capital asset held more than one year. For this purpose, gain from the termination of a right with respect to property which would be a capital asset in the hands of the taxpayer is treated as capital gain.[23]

A pass-thru entity (such as a partnership) generally is not subject to Federal income tax. Rather, each owner includes its share of a pass-thru entity's income, gain, loss, deduction or credit in its taxable income. Generally, the character of the item is determined at the entity level and flows through to the owners. Thus, for example, the treatment of an item of income by a partnership as ordinary income, short-term capital gain, or long-term capital gain retains its character when reported by each of the partners.

Investors may enter into forward contracts, notional principal contracts, and

[22] $75,000 for married taxpayers filing separately.

[23] Section 1234A, as amended by the Taxpayer Relief Act of 1997.

other similar arrangements with respect to property that provides the investor with the same or similar economic benefits as owning the property directly but with potentially different tax consequences (as to the character and timing of any gain).

House Bill

No provision.

Senate Amendment

No provision, but S. 1792, as passed by the Senate, includes a provision that limits the amount of long-term capital gain a taxpayer could recognize from certain derivative contracts (''constructive ownership transactions'') with respect to certain financial assets. The amount of long-term capital gain is limited to the amount of such gain the taxpayer would have recognized if the taxpayer held the financial asset directly during the term of the derivative contract. Any gain in excess of this amount is treated as ordinary income. An interest charge is imposed on the amount of gain that is treated as ordinary income. The provision does not alter the tax treatment of the long-term capital gain that is not treated as ordinary income.

A taxpayer is treated as having entered into a constructive ownership transaction if the taxpayer (1) holds a long position under a notional principal contract with respect to the financial asset, (2) enters into a forward contract to acquire the financial asset, (3) is the holder of a call option, and the grantor of a put option, with respect to a financial asset, and the options have substantially equal strike prices and substantially contemporaneous maturity dates, or (4) to the extent provided in regulations, enters into one or more transactions, or acquires one or more other positions, that have substantially the same effect of replicating the economic benefits of direct ownership of a financial asset without a significant change in the risk-reward profile with respect to the underlying transaction.[24]

A ''financial asset'' is defined as (1) any equity interest in a pass-thru entity, and (2) to the extent provided in regulations, any debt instrument and any stock in a corporation that is not a pass-thru entity. A ''pass-thru entity'' refers to (1) a regulated investment company, (2) a real estate investment trust, (3) a real estate mortgage investment conduit, (4) an S corporation, (5) a partnership, (6) a trust, (7) a common trust fund, (8) a passive foreign investment company,[25] (9) a foreign personal holding company, and (10) a foreign investment company.

The amount of recharacterized gain is calculated as the excess of the amount of long-term capital gain the taxpayer would have had absent this provision over the ''net underlying long-term capital gain'' attributable to the financial asset. The net underlying long-term capital gain is the amount of net capital gain the taxpayer would have realized if it had acquired the financial asset for its fair market value on the date the constructive ownership transaction was opened and sold the financial asset on the date the transaction was closed (only taking into account gains and losses that would have resulted from a deemed ownership of the financial asset).[26] The long-term capital gains rate on the net underlying long-term capital gain is determined by reference to the individual capital gains rates in section 1(h).

Example 1: On January 1, 2000, Taxpayer enters into a three-year notional principal contract (a constructive ownership transaction) with a securities dealer whereby, on the settlement date, the dealer agrees to pay Taxpayer the amount of any increase in the notional value of an interest in an investment partnership (the financial asset). After three years, the value of the notional principal contract increased by $200,000, of which $150,000 is attributable to ordinary income and net short-term capital gain ($50,000 is attributable to net long-term capital gains). The amount of the net underlying long-term capital gains is $50,000, and the amount of gain that is recharacterized as ordinary income is $150,000 (the excess of $200,000 of long-term gain over the $50,000 of net underlying long-term capital gain).

An interest charge is imposed on the underpayment of tax for each year that the constructive ownership transaction was open. The interest charge is the amount of interest that would be imposed under section 6601 had the recharacterized gain been included in the taxpayer's gross income during the term of the constructive ownership transaction. The recharacterized gain is treated as having accrued such that the gain in each successive year is equal to the gain in the prior year increased by a constant growth rate[27] during the term of the constructive ownership transaction.

Example 2: Same facts as in *example 1,* and assume the applicable Federal rate on December 31, 2002, is six percent. For purposes of calculating the interest charge, Taxpayer must allocate the $150,000 of recharacterized ordinary income to the three year-term of the constructive ownership transaction as follows: $47,116.47 is allocated to year 2000, $49,943.46 is allocated to year 2001, and $52,940.07 is allocated to year 2002.

A taxpayer is treated as holding a long position under a notional principal contract with respect to a financial asset if the person (1) has the right to be paid (or receive credit for) all or substantially all of the investment yield (including appreciation) on the financial asset for a specified period, and (2) is obligated to reimburse (or provide credit) for all or substantially all of any decline in the value of the financial asset. A forward contract is a contract to acquire in the future (or provide or receive credit for the future value of) any financial asset.

If the constructive ownership transaction is closed by reason of taking delivery of the underlying financial asset, the taxpayer is treated as having sold the contract, option, or other position that is part of the transaction for its fair market value on the closing date. However, the amount of gain that is recognized as a result of having taken delivery is limited to the amount of gain that is treated as ordinary income by reason of this provision (with appropriate basis adjustments for such gain).

The provision does not apply to any constructive ownership transaction if all of the positions that are part of the transaction are marked to market under the Code or regulations. The Treasury Department is authorized to prescribe regulations as necessary to carry out the purposes of the provision, including to (1) permit taxpayers to mark to market constructive ownership transactions in lieu of the provision, and (2) exclude certain forward contracts that do not convey substantially all of the economic return with respect to a financial asset.

No inference is intended as to the proper treatment of a constructive ownership transaction entered into prior to the effective date of this provision.

Effective date.—The provision applies to transactions entered into on or after July 12, 1999. For this purpose, a contract, option or any other arrangement that is entered into or exercised on or after July 12, 1999, which extends or otherwise modifies the terms of a transaction entered into prior to such date is treated as a transaction entered into on or after July 12, 1999.

Conference Agreement

The conference agreement includes the provision in S. 1792 with a clarification regarding the effective date. The provision applies to transactions entered into on or after July 12, 1999. For this purpose, it is expected that a contract, option or any other arrangement that is entered into or exercised on or after July 12, 1999, which extends or otherwise modifies the terms of a transaction entered into prior to such date will be treated as a transaction entered into on or after July 12, 1999, unless a party to the transaction other than the taxpayer has, as of July 12, 1999, the exclusive right to extend the terms of the transaction, and the length of such extension does not exceed the first business day following a period of five years from the original termination date under the transaction.

E. Treatment of Excess Pension Assets Used for Retiree Health Benefits (sec. 420 of the Code, and secs. 101, 403, and 408 of ERISA)

Present Law

Defined benefit pension plan assets generally may not revert to an employer prior to the termination of the plan and the satisfaction of all plan liabilities. A reversion prior to plan termination may constitute a prohibited transaction and may result in disqualification of the plan. Certain limitations and procedural requirements apply to a reversion upon plan termination. Any assets that revert to the employer upon plan termination are includible in the gross income of the employer and subject to an excise tax. The excise tax rate, which may be as high as 50 percent of the reversion, varies depending upon whether or not the employer maintains a replacement plan or makes certain benefit increases. Upon plan termination, the accrued benefits of all plan participants are required to be 100–percent vested.

A pension plan may provide medical benefits to retired employees through a section 401(h) account that is a part of such plan. A qualified transfer of excess assets of a defined benefit pension plan (other than a multiemployer plan) into a section 401(h) account that is a part of such plan does not result in plan disqualification and is not treated as a reversion to the employer or a prohibited transaction. Therefore, the transferred assets are not includible in the gross income of the employer and are not subject to the excise tax on reversions.

Qualified transfers are subject to amount and frequency limitations, use requirements, deduction limitations, vesting requirements and minimum benefit requirements. Excess assets transferred in a qualified transfer may not exceed the amount reasonably estimated to be the amount that the employer will pay out of such account during the taxable year of the transfer for qualified current retiree health liabilities. No more than one qualified transfer with respect to any plan may occur in any taxable year.

The transferred assets (and any income thereon) must be used to pay qualified current retiree health liabilities (either directly or through reimbursement) for the taxable year of the transfer. Transferred amounts

[24] It is not expected that leverage in a constructive ownership transaction would change the risk-reward profile with respect to the underlying transaction.

[25] For this purpose, a passive foreign investment company includes an investment company that is also a controlled foreign corporation.

[26] A taxpayer must establish the amount of the net underlying long-term capital gain with clear and convincing evidence; otherwise, the amount is deemed to be zero. To the extent that the economic positions of the taxpayer and the counterparty do not equally offset each other, the amount of the net underlying long-term capital gain may be difficult to establish.

[27] The accrual rate is the applicable Federal rate on the day the transaction closed.

generally must benefit all pension plan participants, other than key employees, who are entitled upon retirement to receive retiree medical benefits through the section 401(h) account. Retiree health benefits of key employees may not be paid (directly or indirectly) out of transferred assets. Amounts not used to pay qualified current retiree health liabilities for the taxable year of the transfer are to be returned at the end of the taxable year to the general assets of the plan. These amounts are not includible in the gross income of the employer, but are treated as an employer reversion and are subject to a 20-percent excise tax.

No deduction is allowed for (1) a qualified transfer of excess pension assets into a section 401(h) account, (2) the payment of qualified current retiree health liabilities out of transferred assets (and any income thereon) or (3) a return of amounts not used to pay qualified current retiree health liabilities to the general assets of the pension plan.

In order for the transfer to be qualified, accrued retirement benefits under the pension plan generally must be 100-percent vested as if the plan terminated immediately before the transfer.

The minimum benefit requirement requires each group health plan under which applicable health benefits are provided to provide substantially the same level of applicable health benefits for the taxable year of the transfer and the following 4 taxable years. The level of benefits that must be maintained is based on benefits provided in the year immediately preceding the taxable year of the transfer. Applicable health benefits are health benefits or coverage that are provided to (1) retirees who, immediately before the transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan and (2) the spouses and dependents of such retirees.

The provision permitting a qualified transfer of excess pension assets to pay qualified current retiree health liabilities expires for taxable years beginning after December 31, 2000.[28]

House Bill

No provision.

Senate Amendment

No provision. However, S. 1792, as passed by the Senate, extends the present-law provision permitting qualified transfers of excess defined benefit pension plan assets to provide retiree health benefits under a section 401(h) account through September 30, 2009.[29] In addition, the present-law minimum benefit requirement is replaced by the minimum cost requirement that applied to qualified transfers before December 9, 1994, to section 401(h) accounts. Therefore, each group health plan or arrangement under which applicable health benefits are provided is required to provide a minimum dollar level of retiree health expenditures for the taxable year of the transfer and the following 4 taxable years. The minimum dollar level is the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the transfer. The applicable employer cost for a taxable year is determined by dividing the employer's qualified current retiree health liabilities by the number of individuals to whom coverage for applicable health benefits was provided during the taxable year.

Effective date.—S. 1792, as passed by the Senate, is effective with respect to qualified transfers of excess defined benefit pension plan assets to section 401(h) accounts after December 31, 2000, and before October 1, 2009. The modification of the minimum benefit requirement is effective with respect to transfers after the date of enactment. In addition, S. 1792 contains a transition rule regarding the minimum cost requirement. Under this rule, an employer must satisfy the minimum benefit requirement with respect to a qualified transfer that occurs after the date of enactment during the portion of the cost maintenance period of such transfer that overlaps the benefit maintenance period of a qualified transfer that occurs on or before the date of enactment. For example, suppose an employer (with a calendar year taxable year) made a qualified transfer in 1998. The minimum benefit requirement must be satisfied for calendar years 1998, 1999, 2000, 2001, and 2002. Suppose the employer also makes a qualified transfer in 2000. Then, the employer is required to satisfy the minimum benefit requirement in 2000, 2001, and 2002, and is required to satisfy the minimum cost requirement in 2003 and 2004.

Conference Agreement

The conference agreement extends the present-law provision permitting qualified transfers of excess defined benefit pension plan assets to provide retiree health benefits under a section 401(h) account through December 31, 2005.[30] The modification of the minimum benefit requirement is effective with respect to transfers after the date of enactment. The Secretary of the Treasury is directed to prescribe such regulations as may be necessary to prevent an employer who significantly reduces retiree health coverage during the cost maintenance period from being treated as satisfying the minimum cost requirement. In addition, the conference agreement contains a transition rule regarding the minimum cost requirement. Under this rule, an employer must satisfy the minimum benefit requirement with respect to a qualified transfer that occurs after the date of enactment during the portion of the cost maintenance period of such transfer that overlaps the benefit maintenance period of a qualified transfer that occurs on or before the date of enactment. For example, suppose an employer (with a calendar year taxable year) made a qualified transfer in 1998. The minimum benefit requirement must be satisfied for calendar years 1998, 1999, 2000, 2001, and 2002. Suppose the employer also makes a qualified transfer in 2000. Then, the employer is required to satisfy the minimum benefit requirement in 2000, 2001, and 2002, and is required to satisfy the minimum cost requirement in 2003 and 2004.

Effective date.—The conference agreement is effective with respect to qualified transfers of excess defined benefit pension plan assets to section 401(h) accounts after December 31, 2000, and before January 1, 2006. The modification of the minimum benefit requirement is effective with respect to transfers after the date of enactment. In addition, the conference agreement contains a transition rule regarding the minimum cost requirement. Under this rule, an employer must satisfy the minimum benefit requirement with respect to a qualified transfer that occurs after the date of enactment during the portion of the cost maintenance period of such transfer that overlaps the benefit maintenance period of a qualified transfer that occurs on or before the date of enactment. For example, suppose an employer (with a calendar year taxable year) made a qualified transfer in 1998. The minimum benefit requirement must be satisfied for calendar years 1998, 1999, 2000, 2001, and 2002. Suppose the employer also makes a qualified transfer in 2000. Then, the employer is required to satisfy the minimum benefit requirement in 2000, 2001, and 2002, and is required to satisfy the minimum cost requirement in 2003 and 2004.

F. Modify Installment Method and Prohibit its Use by Accrual Method Taxpayers (sections 453 and 453A of the Code)

Present Law

An accrual method taxpayer is generally required to recognize income when all the events have occurred that fix the right to the receipt of the income and the amount of the income can be determined with reasonable accuracy. The installment method of accounting provides an exception to this general principle of income recognition by allowing a taxpayer to defer the recognition of income from the disposition of certain property until payment is received. Sales to customers in the ordinary course of business are not eligible for the installment method, except for sales of property that is used or produced in the trade or business of farming and sales of timeshares and residential lots if an election to pay interest under section 453(l)(2)(B)) is made.

A pledge rule provides that if an installment obligation is pledged as security for any indebtedness, the net proceeds[31] of such indebtedness are treated as a payment on the obligation, triggering the recognition of income. Actual payments received on the installment obligation subsequent to the receipt of the loan proceeds are not taken into account until such subsequent payments exceed the loan proceeds that were treated as payments. The pledge rule does not apply to sales of property used or produced in the trade or business of farming, to sales of timeshares and residential lots where the taxpayer elects to pay interest under section 453(l)(2)(B), or to dispositions where the sales price does not exceed $150,000.

An additional rule requires the payment of interest on the deferred tax that is attributable to most large installment sales.

House Bill

No provision.

Senate Amendment

No provision, but S. 1792, as passed by the Senate, generally prohibits the use of the installment method of accounting for dispositions of property that would otherwise be reported for Federal income tax purposes using an accrual method of accounting and modifies the installment sale pledge rule to provide that entering into any arrangement that gives the taxpayer the right to satisfy an obligation with an installment note will be treated in the same manner as the direct pledge of the installment note.

Prohibition on the use of the installment method for accrual method dispositions

S. 1792 generally prohibits the use of the installment method of accounting for dispositions of property that would otherwise be reported for Federal income tax purposes

[28] Title I of the Employee Retirement Income Security Act of 1974, as amended (''ERISA''), provides that plan participants, the Secretaries of Treasury and the Department of Labor, the plan administrator, and each employee organization representing plan participants must be notified 60 days before a qualified transfer of excess assets to a retiree health benefits account occurs (ERISA sec. 103(e)). ERISA also provides that a qualified transfer is not a prohibited transaction under ERISA (ERISA sec. 408(b)(13)) or a prohibited reversion of assets to the employer (ERISA sec. 403(c)(1)). For purposes of these provisions, a qualified transfer is generally defined as a transfer pursuant to section 420 of the Internal Revenue Code, as in effect on January 1, 1995.

[29] S. 1792 modifies the corresponding provisions of ERISA.

[30] The conference agreement modifies the corresponding provisions of ERISA.

[31] The net proceeds equal the gross loan proceeds less the direct expenses of obtaining the loan.

using an accrual method of accounting. The provision does not change present law regarding the availability of the installment method for dispositions of property used or produced in the trade or business of farming. The provision also does not change present law regarding the availability of the installment method for dispositions of timeshares or residential lots if the taxpayer elects to pay interest under section 453(l).

The provision does not change the ability of a cash method taxpayer to use the installment method. For example, a cash method individual owns all of the stock of a closely held accrual method corporation. This individual sells his stock for cash, a ten year note, and a percentage of the gross revenues of the company for next ten years. The provision does not change the ability of this individual to use the installment method in reporting the gain on the sale of the stock.

Modifications to the pledge rule

S. 1792 modifies the pledge rule to provide that entering into any arrangement that gives the taxpayer the right to satisfy an obligation with an installment note will be treated in the same manner as the direct pledge of the installment note. For example, a taxpayer disposes of property for an installment note. The disposition is properly reported using the installment method. The taxpayer only recognizes gain as it receives the deferred payment. However, were the taxpayer to pledge the installment note as security for a loan, it would be required to treat the proceeds of such loan as a payment on the installment note, and recognize the appropriate amount of gain. Under the provision, the taxpayer would also be required to treat the proceeds of a loan as payment on the installment note to the extent the taxpayer had the right to ''put'' or repay the loan by transferring the installment note to the taxpayer's creditor. Other arrangements that have a similar effect would be treated in the same manner.

The modification of the pledge rule applies only to installment sales where the pledge rule of present law applies. Accordingly, the provision does not apply to (1) installment method sales made by a dealer in timeshares and residential lots where the taxpayer elects to pay interest under section 453(l)(2)(B), (2) sales of property used or produced in the trade or business of farming, or (3) dispositions where the sales price does not exceed $150,000, since such sales are not subject to the pledge rule under present law.

Effective date.—The provision is effective for sales or other dispositions entered into on or after the date of enactment.

Conference Agreement

The conference agreement includes the provision in S. 1792.

G. Denial of Charitable Contribution Deduction for Transfers Associated with Split-dollar Insurance Arrangements (new sec. 501(c)(28) of the Code)

Present Law

Under present law, in computing taxable income, a taxpayer who itemizes deductions generally is allowed to deduct charitable contributions paid during the taxable year. The amount of the deduction allowable for a taxable year with respect to any charitable contribution depends on the type of property contributed, the type of organization to which the property is contributed, and the income of the taxpayer (secs. 170(b) and 170(e)). A charitable contribution is defined to mean a contribution or gift to or for the use of a charitable organization or certain other entities (sec. 170(c)). The term ''contribution or gift'' is not defined by statute, but generally is interpreted to mean a voluntary transfer of money or other property without receipt of adequate consideration and with donative intent. If a taxpayer receives or expects to receive a quid pro quo in exchange for a transfer to charity, the taxpayer may be able to deduct the excess of the amount transferred over the fair market value of any benefit received in return, provided the excess payment is made with the intention of making a gift.[32]

In general, no charitable contribution deduction is allowed for a transfer to charity of less than the taxpayer's entire interest (i.e., a partial interest) in any property (sec. 170(f)(3)). In addition, no deduction is allowed for any contribution of $250 or more unless the taxpayer obtains a contemporaneous written acknowledgment from the donee organization that includes a description and good faith estimate of the value of any goods or services provided by the donee organization to the taxpayer in consideration, whole or part, for the taxpayer's contribution (sec. 170(f)(8)).

House Bill

No provision.

Senate Amendment

Deduction denial

No provision. However, S. 1792, as passed by the Senate, contains a provision[33] that restates present law to provide that no charitable contribution deduction is allowed for purposes of Federal tax, for a transfer to or for the use of an organization described in section 170(c) of the Internal Revenue Code, if in connection with the transfer (1) the organization directly or indirectly pays, or has previously paid, any premium on any ''personal benefit contract'' with respect to the transferor, or (2) there is an understanding or expectation that any person will directly or indirectly pay any premium on any ''personal benefit contract'' with respect to the transferor. It is intended that an organization be considered as indirectly paying premiums if, for example, another person pays premiums on its behalf.

A personal benefit contract with respect to the transferor is any life insurance, annuity, or endowment contract, if any direct or indirect beneficiary under the contract is the transferor, any member of the transferor's family, or any other person (other than a section 170(c) organization) designated by the transferor. For example, such a beneficiary would include a trust having a direct or indirect beneficiary who is the transferor or any member of the transferor's family, and would include an entity that is controlled by the transferor or any member of the transferor's family. It is intended that a beneficiary under the contract include any beneficiary under any side agreement relating to the contract. If a transferor contributes a life insurance contract to a section 170(c) organization and designates one or more section 170(c) organizations as the sole beneficiaries under the contract, generally, it is not intended that the deduction denial rule under the provision apply. If, however, there is an outstanding loan under the contract upon the transfer of the contract, then the transferor is considered as a beneficiary. The fact that a contract also has other direct or indirect beneficiaries (persons who are not the transferor or a family member, or designated by the transferor) does not prevent it from being a personal benefit contract. The provision is not intended to affect situations in which an organization pays premiums under a legitimate fringe benefit plan for employees.

It is intended that a person be considered as an indirect beneficiary under a contract if, for example, the person receives or will receive any economic benefit as a result of amounts paid under or with respect to the contract. For this purpose, as described below, an indirect beneficiary is not intended to include a person that benefits exclusively under a bona fide charitable gift annuity (within the meaning of sec. 501(m)).

In the case of a charitable gift annuity, if the charitable organization purchases an annuity contract issued by an insurance company to fund its obligation to pay the charitable gift annuity, a person receiving payments under the charitable gift annuity is not treated as an indirect beneficiary, provided certain requirements are met. The requirements are that (1) the charitable organization possess all of the incidents of ownership (within the meaning of Treas. Reg. sec. 20.2042–1(c)) under the annuity contract purchased by the charitable organization; (2) the charitable organization be entitled to all the payments under the contract; and (3) the timing and amount of payments under the contract be substantially the same as the timing and amount of payments to each person under the organization's obligation under the charitable gift annuity (as in effect at the time of the transfer to the charitable organization).

Under the provision, an individual's family consists of the individual's grandparents, the grandparents of the individual's spouse, the lineal descendants of such grandparents, and any spouse of such a lineal descendant.

In the case of a charitable gift annuity obligation that is issued under the laws of a State that requires, in order for the charitable gift annuity to be exempt from insurance regulation by that State, that each beneficiary under the charitable gift annuity be named as a beneficiary under an annuity contract issued by an insurance company authorized to transact business in that State, then the foregoing requirements (1) and (2) are treated as if they are met, provided that certain additional requirements are met. The additional requirements are that the State law requirement was in effect on February 8, 1999, each beneficiary under the charitable gift annuity is a bona fide resident of the State at the time the charitable gift annuity was issued, the only persons entitled to payments under the annuity contract issued by the insurance company are persons entitled to payments under the charitable gift annuity when it was issued, and (as required by clause (iii) of subparagraph (D) of the provision) the timing and amount of payments under the annuity contract to each person are substantially the same as the timing and amount of payments to the person under the charitable gift annuity (as in effect at the time of the transfer to the charitable organization).

In the case of a charitable remainder annuity trust or charitable remainder unitrust (as defined in section 664(d)) that holds a life insurance, endowment or annuity contract issued by an insurance company, a person is not treated as an indirect beneficiary under the contract held by the trust, solely by reason of being a recipient of an annuity or unitrust amount paid by the trust, provided that the trust possesses all of the incidents of ownership under the contract and is entitled to all the payments under such contract. No inference is intended as to the applicability of other provisions of the Code with respect to the acquisition by the trust of a life insurance, endowment or annuity contract, or the appropriateness of such an investment by a charitable remainder trust.

Nothing in the provision is intended to suggest that a life insurance, endowment, or annuity contract would be a personal benefit

[32] United States v. American Bar Endowment, 477 U.S. 105 (1986). Treas. Reg. sec. 1.170A–1(h).

[33] The provision is similar to H.R. 630, introduced by Mr. Archer and Mr. Rangel (106th Cong., 1st Sess.).

contract, solely because an individual who is a recipient of an annuity or unitrust amount paid by a charitable remainder annuity trust or charitable remainder unitrust uses such a payment to purchase a life insurance, endowment or annuity contract, and a beneficiary under the contract is the recipient, a member of his or her family, or another person he or she designates.

Excise tax

The provision imposes on any organization described in section 170(c) of the Code an excise tax, equal to the amount of the premiums paid by the organization on any life insurance, annuity, or endowment contract, if the premiums are paid in connection with a transfer for which a deduction is not allowable under the deduction denial rule of the provision (without regard to when the transfer to the charitable organization was made). The excise tax does not apply if all of the direct and indirect beneficiaries under the contract (including any related side agreement) are organizations described in section 170(c). Under the provision, payments are treated as made by the organization, if they are made by any other person pursuant to an understanding or expectation of payment. The excise tax is to be applied taking into account rules ordinarily applicable to excise taxes in chapter 41 or 42 of the Code (e.g., statute of limitation rules).

Reporting

The provision requires that the charitable organization annually report the amount of premiums that is paid during the year and that is subject to the excise tax imposed under the provision, and the name and taxpayer identification number of each beneficiary under the life insurance, annuity or endowment contract to which the premiums relate, as well as other information required by the Secretary of the Treasury. For this purpose, it is intended that a beneficiary include any beneficiary under any side agreement to which the section 170(c) organization is a party (or of which it is otherwise aware). Penalties applicable to returns required under Code section 6033 apply to returns under this reporting requirement. Returns required under this provision are to be furnished at such time and in such manner as the Secretary shall by forms or regulations require.

Regulations

The provision provides for the promulgation of regulations necessary or appropriate to carry out the purposes of the provisions, including regulations to prevent the avoidance of the purposes of the provision. For example, it is intended that regulations prevent avoidance of the purposes of the provision by inappropriate or improper reliance on the limited exceptions provided for certain beneficiaries under bona fide charitable gift annuities and for certain noncharitable recipients of an annuity or unitrust amount paid by a charitable remainder trust.

Effective date

The deduction denial provision applies to transfers after February 8, 1999 (as provided in H.R. 630). The excise tax provision applies to premiums paid after the date of enactment. The reporting provision applies to premiums paid after February 8, 1999 (determined as if the excise tax imposed under the provision applied to premiums paid after that date).

No inference is intended that a charitable contribution deduction is allowed under present law with respect to a charitable split-dollar insurance arrangement. The provision does not change the rules with respect to fraud or criminal or civil penalties under present law; thus, actions constituting fraud or that are subject to penalties under present law would still constitute fraud or be subject to the penalties after enactment of the provision.

Conference Agrement

The conference agreement includes the provision in S. 1792.

H. Distributions by a Partnership to a Corporate Partner of Stock in Another Corporation (sec. 732 of the Code)

Present Law

Present law generally provides that no gain or loss is recognized on the receipt by a corporation of property distributed in complete liquidation of another corporation in which it holds 80 percent of the stock (by vote and value) (sec. 332). The basis of property received by a corporate distributee in the distribution in complete liquidation of the 80–percent-owned subsidiary is a carryover basis, i.e., the same as the basis in the hands of the subsidiary (provided no gain or loss is recognized by the liquidating corporation with respect to the distributed property) (sec. 334(b)).

Present law provides two different rules for determining a partner's basis in distributed property, depending on whether or not the distribution is in liquidation of the partner's interest in the partnership. Generally, a substituted basis rule applies to property distributed to a partner in liquidation. Thus, the basis of property distributed in liquidation of a partner's interest is equal to the partner's adjusted basis in its partnership interest (reduced by any money distributed in the same transaction) (sec. 732(b)).

By contrast, generally, a carryover basis rule applies to property distributed to a partner other than in liquidation of its partnership interest, subject to a cap (sec. 732(a)). Thus, in a non-liquidating distribution, the distributee partner's basis in the property is equal to the partnership's adjusted basis in the property immediately before the distribution, but not to exceed the partner's adjusted basis in its partnership interest (reduced by any money distributed in the same transaction). In a non-liquidating distribution, the partner's basis in its partnership interest is reduced by the amount of the basis to the distributee partner of the property distributed and is reduced by the amount of any money distributed (sec. 733).

If corporate stock is distributed by a partnership to a corporate partner with a low basis in its partnership interest, the basis of the stock is reduced in the hands of the partner so that the stock basis equals the distributee partner's adjusted basis in its partnership interest. No comparable reduction is made in the basis of the corporation's assets, however. The effect of reducing the stock basis can be negated by a subsequent liquidation of the corporation under section 332.[34]

House Bill

No provision.

Senate Amendment

In general

No provision. However, S. 1792, as passed by the Senate, contains a provision that provides for a basis reduction to assets of a corporation, if stock in that corporation is distributed by a partnership to a corporate partner. The reduction applies if, after the distribution, the corporate partner controls the distributed corporation.

Amount of the basis reduction

Under the provision, the amount of the reduction in basis of property of the distributed corporation generally equals the amount of the excess of (1) the partnership's adjusted basis in the stock of the distributed corporation immediately before the distribution, over (2) the corporate partner's basis in that stock immediately after the distribution.

The provision limits the amount of the basis reduction in two respects. First, the amount of the basis reduction may not exceed the amount by which (1) the sum of the aggregate adjusted bases of the property and the amount of money of the distributed corporation exceeds (2) the corporate partner's adjusted basis in the stock of the distributed corporation. Thus, for example, if the distributed corporation has cash of $300 and other property with a basis of $600 and the corporate partner's basis in the stock of the distributed corporation is $400, then the amount of the basis reduction could not exceed $500 (i.e., ($300+$600)—$400 = $500).

Second, the amount of the basis reduction may not exceed the adjusted basis of the property of the distributed corporation. Thus, the basis of property (other than money) of the distributed corporation could not be reduced below zero under the provision, even though the total amount of the basis reduction would otherwise be greater.

The provision provides that the corporate partner recognizes long-term capital gain to the extent the amount of the basis reduction exceeds the basis of the property (other than money) of the distributed corporation. In addition, the corporate partner's adjusted basis in the stock of the distribution is increased in the same amount. For example, if the amount of the basis reduction were $400, and the distributed corporation has money of $200 and other property with an adjusted basis of $300, then the corporate partner would recognize a $100 capital gain under the provision. The corporate partner's basis in the stock of the distributed corporation is also increased by $100 in this example, under the provision.

The basis reduction is allocated among assets of the controlled corporation in accordance with the rules provided under section 732(c).

Partnership distributions resulting in control

The basis reduction generally applies with respect to a partnership distribution of stock if the corporate partner controls the distributed corporation immediately after the distribution or at any time thereafter. For this purpose, the term control means ownership of stock meeting the requirements of section 1504(a)(2) (generally, an 80–percent vote and value requirement).

The provision applies to reduce the basis of any property held by the distributed corporation immediately after the distribution, or, if the corporate partner does not control the distributed corporation at that time, then at the time the corporate partner first has such control. The provision does not apply to any distribution if the corporate partner does not have control of the distributed corporation immediately after the distribution and establishes that the distribution was not part of a plan or arrangement to acquire control.

For purposes of the provision, if a corporation acquires (other than in a distribution from a partnership) stock the basis of which is determined (by reason of being distributed from a partnership) in whole or in part by reference to section 732(a)(2) or (b), then the corporation is treated as receiving a distribution of stock from a partnership. For example, if a partnership distributes property other than stock (such as real estate) to a corporate partner, and that corporate partner contributes the real estate to another corporation in a section 351 transaction,

[34] In a similar situation involving the purchase of stock of a subsidiary corporation as replacement property following an involuntary conversion, the Code generally requires the basis of the assets held by the subsidiary to be reduced to the extent that the basis of the stock in the replacement corporation itself is reduced (sec. 1033).

then the stock received in the section 351 transaction is not treated as distributed by a partnership, and the basis reduction under this provision does not apply. As another example, if a partnership distributes stock to two corporate partners, neither of which have control of the distributed corporation, and the two corporate partners merge and the survivor obtains control of the distributed corporation, the stock of the distributed corporation that is acquired as a result of the merger is treated as received in a partnership distribution; the basis reduction rule of the provision applies.

In the case of tiered corporations, a special rule provides that if the property held by a distributed corporation is stock in a corporation that the distributed corporation controls, then the provision is applied to reduce the basis of the property of that controlled corporation. The provision is also reapplied to any property of any controlled corporation that is stock in a corporation that it controls. Thus, for example, if stock of a controlled corporation is distributed to a corporate partner, and the controlled corporation has a subsidiary, the amount of the basis reduction allocable to stock of the subsidiary is applied again to reduce the basis of the assets of the subsidiary, under the special rule.

The provision also provides for regulations, including regulations to avoid double counting and to prevent the abuse of the purposes of the provision. It is intended that regulations prevent the avoidance of the purposes of the provision through the use of tiered partnerships.

Effective date

The provision is effective for distributions made after July 14, 1999, except that in the case of a corporation that is a partner in a partnership on July 14, 1999, the provision is effective for distributions by that partnership to the corporation after the date of enactment.

Conference Agreement

The conference agreement includes the provision of S. 1792, with a modification to the effective date.

Effective date.—The provision is effective generally for distributions made after July 14, 1999. However, in the case of a corporation that is a partner in a partnership as of July 14, 1999, the provision is effective for any distribution made (or treated as made) to that partner from that partnership after June 30, 2001. In the case of any such distribution after the date of enactment and before July 1, 2001, the rule of the preceding sentence does not apply unless that partner makes an election to have the rule apply to the distribution on the partner's return of Federal income tax for the taxable year in which the distribution occurs.

No inference is intended that distributions that are not subject to the provision achieve a particular tax result under present law, and no inference is intended that enactment of the provision limits the application of tax rules or principles under present or prior law.

I. Treatment of Real Estate Investment Trusts (REITs)

1. Provisions relating to REITs (secs. 852, 856, and 857 of the Code)

Present Law

A real estate investment trust (''REIT'') is an entity that receives most of its income from passive real-estate related investments and that essentially receives pass-through treatment for income that is distributed to shareholders.

If an electing entity meets the requirements for REIT status, the portion of its income that is distributed to the investors each year generally is taxed to the investors without being subjected to a tax at the REIT level. In general, a REIT must derive its income from passive sources and not engage in any active trade or business.

A REIT must satisfy a number of tests on a year by year basis that relate to the entity's (1) organizational structure; (2) source of income; (3) nature of assets; and (4) distribution of income. Under the source-of-income tests, at least 95 percent of its gross income generally must be derived from rents from real property, dividends, interest, and certain other passive sources (the ''95 percent test''). In addition, at least 75 percent of its gross income generally must be from real estate sources, including rents from real property and interest on mortgages secured by real property. For purposes of the 95 and 75 percent tests, qualified income includes amounts received from certain ''foreclosure property,'' treated as such for 3 years after the property is acquired by the REIT in foreclosure after a default (or imminent default) on a lease of such property or on indebtedness which such property secured.

In general, for purposes of the 95 percent and 75 percent tests, rents from real property do not include amounts for services to tenants or for managing or operating real property. However, there are some exceptions. Qualified rents include amounts received for services that are ''customarily furnished or rendered'' in connection with the rental of real property, so long as the services are furnished through an independent contractor from whom the REIT does not derive any income. Amounts received for services that are not ''customarily furnished or rendered'' are not qualified rents.

An independent contractor is defined as a person who does not own, directly or indirectly, more than 35 percent of the shares of the REIT. Also, no more than 35 percent of the total shares of stock of an independent contractor (or of the interests in assets or net profits, if not a corporation) can be owned directly or indirectly by persons owning 35 percent or more of the interests in the REIT. In addition, a REIT cannot derive any income from an independent contractor.

Rents for certain personal property leased in connection with real property are treated as rents from real property if the adjusted basis of the personal property does not exceed 15 percent of the aggregate adjusted bases of the real and the personal property.

Rents from real property do not include amounts received from any corporation if the REIT owns 10 percent or more of the voting power or of the total number of shares of all classes of stock of such corporation. Similarly, in the case of other entities, rents are not qualified if the REIT owns 10 percent of more in the assets or net profits of such person.

At the close of each quarter of the taxable year, at least 75 percent of the value of total REIT assets must be represented by real estate assets, cash and cash items, and Government securities. Also, a REIT cannot own securities (other than Government securities and certain real estate assets) in an amount greater than 25 percent of the value of REIT assets. In addition, it cannot own securities of any one issuer representing more than 5 percent of the total value of REIT assets or more than 10 percent of the voting securities of any corporate issuer. Securities for purposes of these rules are defined by reference to the Investment Company Act of 1940.[35]

Under an exception to the ownership rule, a REIT is permitted to have a wholly owned subsidiary corporation, but the assets and items of income and deduction of such corporation are treated as those of the REIT, and thus can affect the qualification of the REIT under the income and asset tests.

A REIT generally is required to distribute 95 percent of its income before the end of its taxable year, as deductible dividends paid to shareholders. This rule is similar to a rule for regulated investment companies (''RICs'') that requires distribution of 90 percent of income. Both REITS and RICs can make certain ''deficiency dividends'' after the close of the taxable year, and have these treated as made before the end of the year. The regulations applicable to REITS state that a distribution will be treated as a ''deficiency dividend'' (and, thus, as made before the end of the prior taxable year) only to the extent the earnings and profits for that year exceed the amount of distributions actually made during the taxable year.[36]

A REIT that has been or has combined with a C corporation[37] will be disqualified if, as of the end of its taxable year, it has accumulated earnings and profits from a non-REIT year. A similar rule applies to regulated investment companies (''RICs''). In the case of a REIT, any distribution made in order to comply with this requirement is treated as being first from pre-REIT accumulated earnings and profits. RICs do not have a similar ordering rule.

In the case of a RIC, any distribution made within a specified period after determination that the investment company did not qualify as a RIC for the taxable year will be treated as applying to the RIC for the non-RIC year, ''for purposes of applying [the earnings and profits rule that forbids a RIC to have non-RIC earnings and profits] to subsequent taxable years.'' The REIT rules do not specify any particular separate treatment of distributions made after the end of the taxable year for purposes of the earnings and profits rule. Treasury regulations under the REIT provisions state that ''distribution procedures similar to those * * * for regulated investment companies apply to non-REIT earnings and profits of a real estate investment trust.''[38]

House Bill

No provision.

Senate Amendment

No provision, but S. 1792, as passed by the Senate, provides as follows:

Investment limitations and taxable REIT subsidiaries

General rule.—Under the provision, a REIT generally cannot own more than 10 percent of the total value of securities of a single issuer, in addition to the present law rule that a REIT cannot own more than 10 percent of the outstanding voting securities of a single issuer. In addition, no more than 20 percent of the value of a REIT's assets can be represented by securities of the taxable REIT subsidiaries that are permitted under the bill.

Exception for safe-harbor debt.—For purposes of the new 10–percent value test, securities are generally defined to exclude safe harbor debt owned by a REIT (as defined for purposes of sec. 1361(c)(5)(B)(i) and (ii)) if the issuer is an individual, or if the REIT (and any taxable REIT subsidiary of such REIT) owns no other securities of the issuer. However, in the case of a REIT that owns securities of a partnership, safe harbor debt is excluded from the definition of securities only

[35] 15 U.S.C. 80a–1 and following. See Code section 856(c)(5)(F).

[36] Treas. Reg. sec. 1.858–1(b)(2).

[37] A ''C corporation'' is a corporation that is subject to taxation under the rules of subchapter C of the Internal Revenue Code, which generally provides for a corporate level tax on corporate income. Thus, a C corporation is not a pass-through entity. Earnings and profits of a C corporation, when distributed to shareholders, are taxed to the shareholders as dividends.

[38] Treas. Reg. sec. 1.857–11(c).

if the REIT owns at least 20–percent or more of the profits interest in the partnership. The purpose of the partnership rule requiring a 20 percent profits interest is to assure that if the partnership produces income that would be disqualified income to the REIT, the REIT will be treated as receiving a significant portion of that income directly through its partnership interest, even though it also may derive qualified interest income through its safe harbor debt interest.

Exception for taxable REIT subsidiaries.—An exception to the limitations on ownership of securities of a single issuer applies in the case of a ''taxable REIT subsidiary'' that meets certain requirements. To qualify as a taxable REIT subsidiary, both the REIT and the subsidiary corporation must join in an election. In addition, any corporation (other than a REIT or a qualified REIT subsidiary under section 856(i) that does not properly elect with the REIT to be a taxable REIT subsidiary) of which a taxable REIT subsidiary owns, directly or indirectly, more than 35 percent of the vote or value is automatically treated as a taxable REIT subsidiary.

Securities (as defined in the Investment Company Act of 1940) of taxable REIT subsidiaries could not exceed 20 percent of the total value of a REIT's assets.

A taxable REIT subsidiary can engage in certain business activities that under present law could disqualify the REIT because, but for the proposal, the taxable REIT subsidiary's activities and relationship with the REIT could prevent certain income from qualifying as rents from real property. Specifically, the subsidiary can provide services to tenants of REIT property (even if such services were not considered services customarily furnished in connection with the rental of real property), and can manage or operate properties, generally for third parties, without causing amounts received or accrued directly or indirectly by the REIT for such activities to fail to be treated as rents from real property. However, rents paid to a REIT generally are not qualified rents if the REIT owns more than 10 percent of the value, (as well as of the vote) of a corporation paying the rents. The only exceptions are for rents that are paid by taxable REIT subsidiaries and that also meet a limited rental exception (where 90 percent of space is leased to third parties at comparable rents) and an exception for rents from certain lodging facilities (operated by an independent contractor).

However, the subsidiary cannot directly or indirectly operate or manage a lodging or healthcare facility. Nevertheless, it can lease a qualified lodging facility (e.g., a hotel) from the REIT (provided no gambling revenues were derived by the hotel or on its premises); and the rents paid are treated as rents from real property so long as the lodging facility was operated by an independent contractor for a fee. The subsidiary can bear all expenses of operating the facility and receive all the net revenues, minus the independent contractor's fee.

For purposes of the rule that an independent contractor may operate a qualified lodging facility, an independent contractor will qualify so long as, at the time it enters into the management agreement with the taxable REIT subsidiary, it is actively engaged in the trade or business of operating qualified lodging facilities for any person who is not related to the REIT or the taxable REIT subsidiary. The REIT may receive income from such an independent contractor with respect to certain pre-existing leases.

Also, the subsidiary generally cannot provide to any person rights to any brand name under which hotels or healthcare facilities are operated. An exception applies to rights provided to an independent contractor to operate or manage a lodging facility, if the rights are held by the subsidiary as licensee or franchisee, and the lodging facility is owned by the subsidiary or leased to it by the REIT.

Interest paid by a taxable REIT subsidiary to the related REIT is subject to the earnings stripping rules of section 163(j). Thus the taxable REIT subsidiary cannot deduct interest in any year that would exceed 50 percent of the subsidiary's adjusted gross income.

If any amount of interest, rent, or other deductions of the taxable REIT subsidiary for amounts paid to the REIT is determined to be other than at arm's length (''redetermined'' items) , an excise tax of 100 percent is imposed on the portion that was excessive. ''Safe harbors'' are provided for certain rental payments where (1) the amounts are de minimis, (2) there is specified evidence that charges to unrelated parties are substantially comparable, (3) certain charges for services from the taxable REIT subsidiary are separately stated, or (4) the subsidiary's gross income from the service is not less than 150 percent of the subsidiary's direct cost in furnishing the service.

In determining whether rents are arm's length rents, the fact that such rents do not meet the requirements of the specified safe harbors shall not be taken into account. In addition, rent received by a REIT shall not fail to qualify as rents from real property by reason of the fact that all or any portion of such rent is redetermined for purposes of the excise tax.

The Treasury Department is to conduct a study to determine how many taxable REIT subsidiaries are in existence and the aggregate amount of taxes paid by such subsidiaries and shall submit a report to the Congress describing the results of such study.

Health Care REITS

The provision permits a REIT to own and operate a health care facility for at least two years, and treat it as permitted ''foreclosure'' property, if the facility is acquired by the termination or expiration of a lease of the property. Extensions of the 2 year period can be granted.

Conformity with regulated investment company rules

Under the provision, the REIT distribution requirements are modified to conform to the rules for regulated investment companies. Specifically, a REIT is required to distribute only 90 percent, rather than 95 percent, of its income.

Definition of independent contractor

If any class of stock of the REIT or the person being tested as an independent contractor is regularly traded on an established securities market, only persons who directly or indirectly own 5 percent or more of such class of stock shall be counted in determining whether the 35 percent ownership limitations have been exceeded.

Modification of earnings and profits rules for RICs and REITS

The rule allowing a RIC to make a distribution after a determination that it had failed RIC status, and thus meet the requirement of no non-RIC earnings and profits in subsequent years, is modified to clarify that, when the sole reason for the determination is that the RIC had non-RIC earnings and profits in the initial year (i.e. because it was determined not to have distributed all C corporation earnings and profits), the procedure would apply to permit RIC qualification in the initial year to which such determination applied, in addition to subsequent years.

The RIC earnings and profits rules are also modified to provide an ordering rule similar to the REIT rule, treating a distribution to meet the requirement of no non-RIC earnings and profits as coming first from the earliest earnings and profits accumulated in any year for which the RIC did not qualify as a RIC. In addition, the REIT deficiency dividend rules are modified to take account of this ordering rule.

Provision regarding rental income from certain personal property

The provision modifies the present law rule that permits certain rents from personal property to be treated as real estate rental income if such personal property does not exceed 15 percent of the aggregate of real and personal property. The provision replaces the present law comparison of the adjusted bases of properties with a comparison based on fair market values.

Effective date.—The provision is effective for taxable years beginning after December 31, 2000. The provision with respect to modification of earnings and profits rules is effective for distributions after December 31, 2000.

In the case of the provisions relating to permitted ownership of securities of an issuer, special transition rules apply. The new rules forbidding a REIT to own more than 10 percent of the value of securities of a single issuer do not apply to a REIT with respect to securities held directly or indirectly by such REIT on July 12, 1999, or acquired pursuant to the terms of written binding contract in effect on that date and at all times thereafter until the acquisition.

Also, securities received in a tax-free exchange or reorganization, with respect to or in exchange for such grandfathered securities would be grandfathered. The grandfathering of such securities ceases to apply if the REIT acquires additional securities of that issuer after that date, other than pursuant to a binding contract in effect on that date and at all times thereafter, or in a reorganization with another corporation the securities of which are grandfathered.

This transition also ceases to apply to securities of a corporation as of the first day after July 12, 1999 on which such corporation engages in a substantial new line of business, or acquires any substantial asset, other than pursuant to a binding contract in effect on such date and at all times thereafter, or in a reorganization or transaction in which gain or loss is not recognized by reason of section 1031 or 1033 of the Code. If a corporation makes an election to become a taxable REIT subsidiary, effective before January 1, 2004 and at a time when the REIT's ownership is grandfathered under these rules, the election is treated as a reorganization under section 368(a)(1)(A) of the Code.

The new 10 percent of value limitation for purposes of defining qualified rents is effective for taxable years beginning after December 31, 2000. There is an exception for rents paid under a lease or pursuant to a binding contract in effect on July 12, 1999 and at all times thereafter.

Conference Agreement

The conference agreement includes the provision in S. 1792. The conference agreement clarifies the RIC and REIT earnings and profits ordering rules in the case of a distribution to meet the requirements that there be no non-RIC or non-REIT earnings and profits in any year.

Both the RIC and REIT earnings and profits rules are modified to provide a more specific ordering rule, similar to the present-law REIT rule. The new ordering rule treats a distribution to meet the requirement of no non-RIC or non-REIT earnings and profits as coming, on a first-in, first-out basis, from earnings and profits which, if not distributed, would result in a failure to meet such requirement. Thus, such earnings and profits

are deemed distributed first from earnings and profits that would cause such a failure, starting with the earliest RIC or REIT year for which such failure would occur.

2. Modify estimated tax rules for closely held REITs (sec. 6655 of the Code)

Present Law

If a person has a direct interest or a partnership interest in income-producing assets (such as securities generally, or mortgages) that produce income throughout the year, that person's estimated tax payments must reflect the quarterly amounts expected from the asset.

However, a dividend distribution of earnings from a REIT is considered for estimated tax purposes when the dividend is paid. Some corporations have established closely held REITS that hold property (e.g. mortgages) that if held directly by the controlling entity would produce income throughout the year. The REIT may make a single distribution for the year, timed such that it need not be taken into account under the estimated tax rules as early as would be the case if the assets were directly held by the controlling entity. The controlling entity thus defers the payment of estimated taxes.

House Bill

No provision.

Senate Amendment

No provision, but S. 1792, as passed by the Senate, provides that in the case of a REIT that is closely held, any person owning at least 10 percent of the vote or value of the REIT is required to accelerate the recognition of year-end dividends attributable to the closely held REIT, for purposes of such person's estimated tax payments. A closely held REIT is defined as one in which at least 50 percent of the vote or value is owed by five or fewer persons. Attribution rules apply to determine ownership.

No inference is intended regarding the treatment of any transaction prior to the effective date.

Effective date.—The provision is effective for estimated tax payments due on or after November 15, 1999.

Conference Agreement

The conference agreement includes the provision in S. 1792, effective for estimated tax payments due on or after December 15, 1999.

TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the ''IRS Reform Act'') requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have widespread applicability to individuals or small businesses.

ESTIMATED BUDGET EFFECTS OF THE REVENUE PROVISIONS INCLUDED IN THE CONFERENCE AGREEMENT FOR H.R. 1180 [1]

[Fiscal years 2000–2009, in millions of dollars]

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2000–2004	2000–2009
The ''Tax Relief Extension Act of 1999''													
I. Extension of Expiring Provisions													
A. Treatment of Nonrefundable Personal Credits Under the Alternative Individual Minimum Tax (through 12/31/01).	tybi 1999	−972	−977	−943	.....	.....	.....	.....	.....	.....	.....	−2,892	−2,892
Research Tax Credit, and Increase AIC Rates by 1 Percentage Point, and Expand to Puerto Rico and the Other Possessions; Delay Claiming of Credit [2] (through 6/30/04).	[3]	.....	−1,661	−4,082	−2,541	−2,242	−1,343	−708	−386	−150	−26	−10,526	−2,892
C. Exemption from Subpart F for Active Financing Income (through 12/31/01).	tyba 12/31/99	−187	−785	−744	.....	.....	.....	.....	.....	.....	.....	−1,716	−1,716
D. Suspension of 100% Net Income Limitation for Marginal Properties (through 12/31/01/).	tyba 12/31/99	−23	−35	−12	.....	.....	.....	.....	.....	.....	.....	−71	−71
E. Work Opportunity Tax Credit (through 12/31/01).	wpoifibwa 6/30/99	−229	−321	−293	−151	−58	−19	−3	.....	.....	.....	−1,051	−1,073
F. Welfare-to-Work Tax Credit (through 12/31/01).	wpoifibwa 6/20/99	−49	−77	−79	−47	−19	−7	−2	.....	.....	.....	−272	−281
G. Extension of Employer Provided Educational Assistance for Undergraduate Courses (through 12/31/01).	cba 5/31/00	−134	−318	−132	.....	.....	.....	.....	.....	.....	.....	−584	−584
H. Extend and Modify Tax Credit for Electricity Produced From Wind and Closed-Loop Biomass Facilities—credit to include electricity produced from poultry waste (through 12/31/01).	[4]	−9	−25	−33	−33	−34	−35	−36	−37	−38	−38	−135	−318
I. Reauthorization of Generalized System of Preferences (through 9/30/01 [5]).	7/1/99	−438	−360	.....	.....	.....	.....	.....	.....	.....	.....	−798	−798
J. Extend Qualified Zone Academy Bond Program (3-year carryforward for 1998 and 1999 authority; 2-year carryforward thereafter) (through 12/31/01).	tybi 2000	−3	−11	−20	−28	−30	−30	−30	−30	−30	−30	−92	−242
K. Extend the $5,000 Credit for First-Time Homebuyers in the District of Columbia (through 12/31/01).	1/1/01	.....	.....	−5	−15	[6]	[6]	[6]	[6]	[6]	[6]	−20	−20
L. Extend Brownfields Environmental Remediation (through 12/31/01).	DOE	11	−43	−59	−20	−2	−1	2	5	6	8	−114	−93
M. Increase Amount of Rum Excise Tax That is Covered Over to Puerto Rico and the U.S. Virgin Islands (from $10.50 per proof gallon to $13.25 per proof gallon) (through 12/31/01) [5] [7].	[8]	−20	−115	−15	.....	.....	.....	.....	.....	.....	.....	−150	−150
Total of Extension of Expiring Provisions	.....	**−2,053**	**−4,733**	**−6,427**	**−2,820**	**−2,385**	**−1,435**	**−777**	**−448**	**−212**	**−86**	**−18,421**	**−150**
II. Other Time-Sensitive Revenue Provisions													
A. Prohibit Disclosure of Advance Pricing Agreements (APAs) and Related Information; Require the IRS to Submit to Congress an Annual Report of Such Agreements.	DOE	No Revenue Effect											
B. Authority to Postpone Certain Tax-Related Deadlines by Reason of Year 2000 Failures.	DOE	Negligible Revenue Effect											
C. Add the Sreptococcus Pneumoniae Vaccine to the List of Taxable Vaccines in the Federal Vaccine Insurance Program; Study of Program.	sbda DOE	4	7	9	10	10	10	10	10	10	11	39	91
D. Delay the Requirement that Registered Motor Fuels Terminals Offer Dyed Kerosene as a Condition of Registration (through 12/31/01).	DOE	Negligible Revenue Effect											
E. Provide that Federal Farm Production Payments are Taxable in the Year of Receipt.	DOE	Negligible Revenue Effect											
Total of Other Time-Sensitive Revenue Provisions.		**4**	**7**	**9**	**10**	**10**	**10**	**10**	**10**	**10**	**11**	**39**	**91**
III. Revenue Offset Provisions													
A. Modify Individual Estimated Tax Safe Harbor to 108.6% for Tax Year 2000 and 110% for Tax Year 2001.	tyba 12/31/99	1,560	840	−2,400									
B. Clarify the Tax Treatment of Income and Losses from Derivatives.	DOE	[9]	1	1	1	1	1	1	1	1	1	4	9
C. Information Reporting on Cancellation of Indebtedness by Non-Bank Financial Institutions.	coia 12/31/99		7	7	7	7	7	7	7	7	7	28	63

ESTIMATED BUDGET EFFECTS OF THE REVENUE PROVISIONS INCLUDED IN THE CONFERENCE AGREEMENT FOR H.R. 1180 [1]—Continued

[Fiscal years 2000–2009, in millions of dollars]

Provision	Effective	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2000–2004	2000–2009
D. Prevent the Conversion of Ordinary Income or Short-Term Capital Gains into Income Eligible for Long-Term Capital Gain Rates.	teio/a 7/12/99	15	45	47	49	51	54	58	62	66	70	207	517
E. Allow Employers to Transfer Excess Defined Benefit Plan Assets to a Special Account for Health Benefits of Retirees (through 12/31/05).	tmi tyba 12/31/00		19	38	39	40	43	23				136	200
F. Repeal Installment Method for Most Accrual Basis Taxpayers; Adjust Pledge Rules.	iso/a DOE	477	677	406	257	72	8	21	35	48	62	1,889	2,063
G. Deny Deduction and Impose Excise Tax With Respect to Charitable Split-Dollar Life Insurance Arrangements.	[10]	Negligible Revenue Effect											
H. Distributions by a Partnership to a Corporate Partner of Stock in Another Corporation.	[11]	2	4	7	10	10	10	10	10	10	10	33	83
I. Real Estate Investment Trust (REIT) Provisions.													
1. Impose 10% vote or value test	tyba 12/31/00		2	8	8	8	9	9	9	10	10	26	73
2. Treatment of income and services provided by taxable REIT subsidiaries, with 20% asset limitation.	tyba 12/31/00		50	131	44	19	−9	−39	−72	−107	−146	244	−129
3. Personal property treatment for determining rents from real property for REITs.	tyba 12/31/00		−1	−1	−1	−1	−1	−1	−1	−1	−1	−3	−7
4. Special foreclosure rule for health care REITs.	tyba 12/31/00	Negligible Revenue Effect											
5. Conformity with RIC 90% distribution rules.	tyba 12/31/00		1	1	1	1	1	1	1	1	1	3	5
6. Clarification of definition of independent operators for REITs.	tyba 12/31/00	Negligible Revenue Effect											
7. Modification of earnings and profits rules.	da 12/31/00		−6	−3	−3	−3	−4	−4	−4	−4	−4	−16	−35
8. Modify estimated tax rules for closely-owned REIT dividends.	epdo/a 12/15/99	40	1	1	1	1	1	1	1	1	1	45	52
Total of Revenue Offset Provisions		**2,094**	**1,640**	**−1,757**	**413**	**206**	**120**	**87**	**49**	**32**	**11**	**2,596**	**2,894**
Net total		**45**	**−3,086**	**−8,175**	**−2,397**	**−2,169**	**−1,305**	**−680**	**−389**	**−170**	**−64**	**−15,786**	**−18,392**

[1] Another Title of H.R. 1180 contains an additional revenue provision that modifies the definition of an eligible foster child for purposes of the earned income credit: Effective—tyba 12/31/99; 2000—2; 2001—36; 2002—38; 2003—38; 2004—39; 2005—40; 2006—41; 2007—42; 2008—43; 2009—43; 2000–04—153; 2000–09—362.

[2] For expenses incurred after 6/30/99 and before 10/1/00, credit cannot be claimed until after 9/30/00. For expenses incurred after 9/30/00 and before 10/1/01, credit cannot be claimed until after 9/30/01.

[3] Extension of credit effective for expenses incurred after 6/30/99; increase in AIC rates effective for taxable years beginning after 6/30/99; expansion of the credit to include U.S. possessions effective for expenditures paid or incurred beginning after 6/30/99.

[4] For wind and closed-loop biomass, provision applies to production from facilities placed in service after 6/30/99 and before 1/1/02; for poultry waste, provision applies to production from facilities placed in service after 12/31/99 and before 1/1/02.

[5] Estimate provided by the Congressional Budget Office.

[6] Loss of less than $500,000.

[7] A special rule applies to the payment of the $2.75 increase in the cover-over rate for periods before 10/1/00.

[8] Effective for rum imported into the United States after 6/30/99.

[9] Gain of less than $500,000.

[10] Effective for transfers made after 2/8/99 and for premiums paid after the date of enactment.

[11] Effective 7/14/99 (except with respect to partnerships in existence on 7/14/99, the provision is effective 6/30/01).

Legend for "Effective" column: cba = courses beginning after; coia = cancellation of indebtedness after; da = distributions after; DOE = date of enactment; epdo/a = estimated payments due on or after; iso/a = installment sales on or after; sbda = sales beginning the day after; teio/a = transactions entered into on or after; tmi = transfers made in; tyba = taxable years beginning after; tybi = taxable years beginning in; wpoifibwa = wages paid or incurred for individuals beginning work after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

BILL ARCHER,
TOM BLILEY,
DICK ARMEY,
Managers on the Part of the House.

W.V. ROTH, Jr.,
TRENT LOTT,
Managers on the Part of the Senate.

RECESS

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

Accordingly (at 11 o'clock and 3 minutes p.m.), the House stood in recess subject to the call of the Chair.

0305

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 3 o'clock and 5 minutes a.m.

RECESS

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

Accordingly (at 3 o'clock and 7 minutes a.m.), the House stood in recess subject to the call of the Chair.

0346

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 3 o'clock and 46 minutes a.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 82, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2000, AND H.J. RES. 83, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2000

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 106–480) on the resolution (H. Res. 385) providing for consideration of the joint resolution (H.J. Res. 82) making further continuing appropriations for the fiscal year 2000, and for other purposes, and for consideration of the joint resolution (H.J. Res. 83) making further continuing appropriations for the fiscal year 2000, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3194, CONSOLIDATED APPROPRIATIONS AND DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2000

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 106–48) on the resolution (H. Res. 386) waiving points of order against the conference report to accompany the bill (H.R. 3194) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1180, TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 106–482 on the resolution (H. Res. 387) providing for consideration of the bill (H.R. 1180) to amend the Social Security Act to expand the availability

of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, 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. MCINTYRE (at the request to Mr. GEPHARDT) for Tuesday, November 16, 1999, on account of family medical reasons.

Mr. WISE (at the request of Mr. GEPHARDT) for today on account of surgery.

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. MCNULTY) to revise and extend their remarks and include extraneous material:)

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. MALONEY of Connecticut, for 5 minutes, today.

(The following Members (at the request of Mr. PAUL) to revise and extend their remarks and include extraneous material:)

Mr. PAUL, for 5 minutes, today.

Mr. FOSSELLA, for 5 minutes, today.

Mr. TANCREDO, for 5 minutes, today.

Mr. ROHRABACHER, for 5 minutes, today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Mrs. MORELLA, for 5 minutes.

ENROLLED JOINT RESOLUTION SIGNED

Mr. THOMAS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res: 80. Joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMAS, from the Committee on House Administration, reported that that committee did on this day present to the President, for his approval, a joint resolution of the House of the following title:

H.J. Res: 80. Joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes.

ADJOURNMENT

Mr. GOSS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 48 minutes a.m.), the House adjourned until today, Thursday, November 18, 1999, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5390. A letter from the Administrator, Farm Service Agency, Department of Agriculture, transmitting the Department's final rule—Providing Notice to Deliquent Farm Loan Program Borrowers of the Potential for Cross-Servicing (RIN: 0560–AF89) received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5391. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule—Mediterranean Fruit Fly; Removal of Quarantined Area [Docket No. 98–083–7] received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5392. A letter from the Congressional Review Coordinator, Department of Agriculture, transmitting the Department's final rule—User Fees; Agricultural Quarantine and Inspection Services [Docket No. 98–073–2] (RIN: 0579–AB05) received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5393. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Paraquat; Pesticide Tolerances for Emergency Exemptions [OPP–300949; FRL–6392–9] (RIN: 2070–AB78) received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5394. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to reform the state inspection of meat and poultry in the United States; to the Committee on Agriculture.

5395. A letter from the Acting Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Comprehensive Small Business Subcontracting Plans [DFARS Case 99–D306] received November 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

5396. A letter from the Acting Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Contract Goal for Small Disadvantaged Business and Certain Institutions of Higher Education [DFARS Case 99–D305] received November 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

5397. A letter from the Acting Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Debarment Investigation and Reports [DFARS Case 99–D013] received November 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

5398. A letter from the Acting Director, Defense Procurement, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Subcontracting Goals for Purchases Benefiting People Who Are Blind or Severely Disabled [DFARS Case 99–D304] received November 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

5399. A letter from the Secretary of Defense, transmitting the approved retirement and advancement to the grade of vice admiral of Vice Admiral Daniel T. Oliver; to the Committee on Armed Services.

5400. A letter from the Federal Register Liaison Officer, Regulations and Legislation Division, Department of the Treasury, transmitting the Department's final rule—Safety and Soundness Standards [Docket No. 99–50] (RIN: 1550–AB27) received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5401. A letter from the Federal Register Liaison Officer, Regulations and Legislation Division, Department of the Treasury, transmitting the Department's final rule—Interagency Guidelines Establishing Year 2000 Standards for Safety and Soundness [Docket No. 99–35] (RIN: 1550–AB27) received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5402. A letter from the Acting Executive Director, Emergency Oil and Gas Guaranteed Loan Board, transmitting the Board's final rule—Emergency Oil and Gas Guaranteed Loan Program (RIN: 3003–ZA00) received November 10, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5403. A letter from the Managing Director, Office of the General Counsel, Federal Housing Finance Board, transmitting the Board's final rule—Allocation of Joint and Several Liability on Consolidated Obligations Among the Federal Home Loan Banks [No. 99–51] (RIN: 3069–AA78) received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5404. A letter from the Director, Executive Office of the President, transmitting Congressional Budget Office and Office of Management and Budget estimates under the Balanced Budget and Emergency Deficit Control Act of 1985, pursuant to Public Law 105—33 section 10205(2) (111 Stat. 703); to the Committee on the Budget.

5405. A letter from the Under Secretary, Food, Nutrition and Consumer Services, Department of Agriculture, transmitting the Department's final rule—National School Lunch Program, School Breakfast Program and Child and Adult Care Food Program: Amendments to the Infant Meal Pattern (RIN: 0584–AB81) received November 12, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5406. A letter from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule—Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits—received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5407. A letter from the Environmental Protection Agency, transmitting a report on the Benefits and Costs of the Clean Air Act, 1990 to 2010; to the Committee on Commerce.

5408. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval of Municipal Waste Combustor State Plan For Designated Facilities and Pollutants: Indiana [IN94–1a; FRL–6476–9] received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5409. A letter from the Secretary of Health and Human Services, transmitting a report

on telemedicine; to the Committee on Commerce.

5410. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Air Force's Proposed Letter(s) of Offer and Acceptance (LOA) to Israel for defense articles and services (Transmittal No. 00–12), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5411. A letter from the Director, Defense Security Assistance Agency, Department of Defense, transmitting a copy of Transmittal No. 00–0A, which relates to the Department of the Army's proposed enhancements or upgrades from the level of sensitivity of technology or capability of defense article(s) previously sold to Singapore, pursuant to 22 U.S.C. 2776(b)(5); to the Committee on International Relations.

5412. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Russia, Ukraine, Norway, United Kingdom, and Cayman Islands [Transmittal No. DTC 124–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5413. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Canada [Transmittal No. DTC 99–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5414. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Canada [Transmittal No. DTC 103–99], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5415. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

5416. A letter from the Assistant Secretary for Administration and Management, Department of Labor, transmitting the Department's A–76 inventory of commercial activities; to the Committee on Government Reform.

5417. A letter from the Chairman, Federal Maritime Commission, transmitting the Annual Inventory of Commercial Activities for 1999; to the Committee on Government Reform.

5418. A letter from the Executive Director for Operations, Nuclear Regulatory Commission, transmitting a copy of the ''Performance of Commercial Activities Inventory''; to the Committee on Government Reform.

5419. A letter from the Executive Director, Securities and Exchange Commission, transmitting the Commission's commercial activities inventory as required under the Federal Activities Inventory Reform Act of 1998; to the Committee on Government Reform.

5420. A letter from the Administrator, Small Business Administration, transmitting the Inventory of Commercial Activities for 1999; to the Committee on Government Reform.

5421. A letter from the Director, Trade and Development Agency, transmitting information on their audit and internal management activities; to the Committee on Government Reform.

5422. A letter from the Independent Counsel, transmitting the fifth annual report for the Office of Independent Counsel, pursuant to 28 U.S.C. 595(a)(2); to the Committee on the Judiciary.

5423. A letter from the Attorney General, transmitting the position of the Department of Justice in the Supreme Court in Dickerson v. United States, No. 99–5525, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5424. A letter from the Program Manager, Bureau of Alcohol, Tobacco and Firearms, transmitting the Bureau's final rule—Implementation of Public Law 104–132, the Antiterrorism and Effective Death Penalty Act of 1996, Relating to the Marking of Plastic Explosives for the Purpose of Detection (96R–029P) received November 8, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5425. A letter from the Assistant Secretary, Civil Works, Department of the Army, transmitting a report on the Tennessee-Tombigbee Waterway Mitigation Project, Alabama and Mississippi; to the Committee on Transportation and Infrastructure.

5426. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Sassafras River, Georgetown, MD [CGD05–99–006] (RIN: 2115–AE47) received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5427. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Miles River, Easton, MD [CGD05–99–003] (RIN: 2115–AE47) received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5428. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Niantic River, CT [CGD01–99–087] (RIN: 2115–AE47) received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5429. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations; Illinois River, IL [CCGD08–99–014] (RIN: 2115–AE47) received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5430. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Kennebec River, ME [CGD01–98–174] (RIN: 2115–AE47) received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5431. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Hackensack River, Passaic River, NJ [CGD01–99–076] (RIN: 2115–AE47) received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5432. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Drawbridge Operation Regulations: Pequonnock River, CT [CGD01–99–086] (RIN: 2115–AE47) received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5433. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Regulated Navigation Area; Strait of Juan de Fuca and Adjacent Coastal Waters of Washington; Makah Whale Hunting [CGD 13–98–023] (RIN: 2115–AE84) received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5434. A letter from the Chief, Office of Regulations and Administrative Law, USCG, Department of Transportation, transmitting the Department's final rule—Safety Zones: All Coast Guard and Navy Vessels Involved in Evidence Transport, Narragansett Bay, Davisville Depot, Davisville, Rhode Island [CGD1–99–185] (RIN: 2115–AA97) received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5435. A letter from the Chief, Regulations Unit, Internal Revenue Service, transmitting the Service's final rule—Annuity Contracts [Revenue Procedure 99–44] received November 16, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5436. A letter from the Secretary of Health and Human Services, transmitting a report on development of a Medical Support Incentive for the Child Support Enforcement program; to the Committee on Ways and Means.

5437. A letter from the Comptroller General, General Accounting Office, transmitting certification that the trustees have paid all claims arising from the American Trader incident, and have established a reserve as required, pursuant to 43 U.S.C. 1653(c)(4); jointly to the Committees on Transportation and Infrastructure and Resources.

5438. A letter from the Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation to enhance federal law enforcement's ability to combat illegal money laundering; jointly to the Committees on the Judiciary, Commerce, Ways and Means, and Banking and Financial Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BURTON: Committee on Government Reform. H.R. 1827. A bill to improve the economy and efficiency of Government operations by requiring the use of recovery audits by Federal agencies; with amendments (Rept. 106–474). Referred to the Committee of the Whole House on the State of the Union.

Mr. DREIER: Committee on Rules. House Resolution 382. Resolution providing for consideration of motions to suspend the rules (Rept. 106–475). Referred to the House Calendar.

Mr. DIAZ-BALART: Committee on Rules. House Resolution 383. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 106–476). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1167. A bill to amend the Indian Self-Determination and Education Assistance Act to provide for further self-governance by Indian tribes, and for other purposes; with an amendment (Rept. 106–477). Referred to the Committee of the Whole House on the State of the Union.

Mr. ARCHER: Committee of Conference. Conference report on H.R. 1180. A bill to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes (Rept. 106–478). Ordered to be printed.

Mr. YOUNG of Florida: Committee of Conference. Conference report on H.R. 3194. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part

against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes (Rept. 106–479). Ordered to be printed.

Mr. GOSS: Committee on Rules. House Resolution 385. Resolution providing for consideration of the joint resolution (H.J. Res. 82) making further continuing appropriations for the fiscal year 2000, and for other purposes, and for consideration of the joint resolution (H.J. Res. 83) making further continuing appropriations for the fiscal year 2000, and for other purposes (Rept. 106–480). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 386. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3194) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000, and for other purposes (Rept. 106–481). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 387. Resolution waiving points of order against the conference report to accompany the bill (H.R. 1180) to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work, and for other purposes (Rept. 106–482). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 5 of rule X the following action was taken by the Speaker:

H.R. 1838. Referral to the Committee on Armed Services extended for a period ending not later than November 18, 1999.

H.R. 3081. Referral to the Committee on Education and the Workforce extended for a period ending not later than November 18, 1999.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. YOUNG of Alaska:

H.R. 3417. A bill to complete the orderly withdrawal of the National Oceanic and Atmospheric Administration from the civil administration of the Pribilof Islands, Alaska; to the Committee on Resources.

By Mr. KANJORSKI (for himself, Ms. KAPTUR, Mr. WAMP, Mr. WHITFIELD, Mrs. BIGGERT, Mr. KLINK, Mr. BROWN of Ohio, Mr. UDALL of Colorado, Mr. BRADY of Pennsylvania, Mr. HOLDEN, and Ms. SLAUGHTER):

H.R. 3418. A bill to establish a compensation program for employees of the Department of Energy, its contractors, subcontractors, and beryllium vendors, who sustained a beryllium-related illness due to the performance of their duty; to establish a compensation program for certain workers at the Paducah, Kentucky, gaseous diffusion plant; to establish a pilot program for examining the possible relationship between workplace exposure to radiation and hazardous materials and illnesses or health conditions, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Education and the Workforce, and Ways and Means, 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. SHUSTER (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. RAHALL):

H.R. 3419. A bill to amend title 49, United States Code, to establish the Federal Motor Carrier Safety Administration, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BILBRAY (for himself, Mr. NORWOOD, Mr. THOMPSON of California, and Mr. BRYANT):

H.R. 3420. A bill to improve the Medicare telemedicine program, to provide grants for the development of telehealth networks, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Ways and Means, 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. YOUNG of Florida:

H.R. 3421. A bill making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 2000, and for other purposes; to the Committee on Appropriations.

By Mr. YOUNG of Florida:

H.R. 3422. A bill making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2000, and for other purposes; to the Committee on Appropriations.

By Mr. YOUNG of Florida:

H.R. 3423. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2000, and for other purposes; to the Committee on Appropriations.

By Mr. YOUNG of Florida:

H.R. 3424. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2000, and for other purposes; to the Committee on Appropriations.

By Mr. YOUNG of Florida:

H.R. 3425. A bill making miscellaneous appropriations for the fiscal year ending September 30, 1999, and for other purposes; to the Committee on Appropriations.

By Mr. THOMAS:

H.R. 3426. A bill to amend titles XVIII, XIX, and XXI of the Social Security Act to make corrections and refinements in the Medicare, Medicaid, and State children's health insurance programs, as revised by the Balanced Budget Act of 1997; 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. SMITH of New Jersey (for himself, Ms. MCKINNEY, Mr. GILMAN, and Mr. GEJDENSON):

H.R. 3427. A bill to authorize appropriations for the Department of State for fiscal years 2000 and 2001; to provide for enhanced security at United States diplomatic facilities; to provide for certain arms control, nonproliferation, and other national security measures; to provide for reform of the United Nations, and for other purposes; to the Committee on International Relations.

By Mr. BLUNT:

H.R. 3428. A bill to provide for the modification and implementation of the final rule for the consideration and reform of Federal milk marketing orders, and for other purposes; to the Committee on Agriculture.

By Mr. BARRETT of Nebraska (for himself, Mr. BEREUTER, Mr. LATHAM, and Mr. BILBRAY):

H.R. 3429. A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to authorize the establishment of a voluntary legal employment authentication program (LEAP) as a successor to the current pilot programs for employment eligibility confirmation; to the Committee on the Judiciary, 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 Mrs. CAPPS:

H.R. 3430. A bill to amend the Public Health Service Act to authorize grants for the prevention of alcoholic beverage consumption by persons who have not attained the legal drinking age; to the Committee on Commerce.

By Mr. ENGEL (for himself, Mr. RUSH, and Ms. JACKSON-LEE of Texas):

H.R. 3431. A bill to reduce restrictions on broadcast ownership and to improve diversity of broadcast ownership; to the Committee on Commerce.

By Mr. JOHN (for himself, Mr. TAUZIN, Mr. BAKER, Mr. MCCRERY, Mr. JEFFERSON, Mr. COOKSEY, Mr. VITTER, Mr. ORTIZ, Mr. BRADY of Texas, Mr. GREEN of Texas, Mr. SMITH of Texas, Mr. QUINN, Mr. PETERSON of Pennsylvania, Mr. REYNOLDS, and Mr. ENGLISH):

H.R. 3432. A bill to direct the Minerals Management Service to grant the State of Louisiana and its lessees a credit in the payment of Federal offshore royalties to satisfy the authorization for compensation contained in the Oil Pollution Act of 1990 for oil and gas drainage in the West Delta field; to the Committee on Resources.

By Mrs. LOWEY:

H.R. 3433. A bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer; to the Committee on Commerce.

By Mrs. LOWEY:

H.R. 3434. A bill to expand the educational and work opportunities of welfare recipients under the program of block grants to States for temporary assistance for needy families; to the Committee on Ways and Means, 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. METCALF (for himself and Mr. GOODE):

H.R. 3435. A bill to amend the Fair Debt Collection Practices Act to reduce the cost of credit, and for other purposes; to the Committee on Banking and Financial Services.

By Mrs. MORELLA (for herself and Mr. ALLEN):

H.R. 3436. A bill to amend the Internal Revenue Code of 1986 to make the dependent care credit refundable, and for other purposes; to the Committee on Ways and Means.

By Mr. NADLER (for himself and Mrs. LOWEY):

H.R. 3437. A bill to amend the Internal Revenue Code of 1986 to provide for inflation adjustments to the income threshold amounts applicable in determining the portion of Social Security benefits subject to tax; to the Committee on Ways and Means.

By Mr. NADLER (for himself and Mrs. LOWEY):

H.R. 3438. A bill to repeal the 1993 tax increase on Social Security benefits; to the Committee on Ways and Means.

By Mr. OXLEY (for himself, Mrs. CUBIN, Mr. STEARNS, Mr. PALLONE, and Mr. EHRLICH):

H.R. 3439. A bill to prohibit the Federal Communications Commission from establishing rules authorizing the operation of new, low power FM radio stations; to the Committee on Commerce.

By Mr. SCOTT:

H.R. 3440. A bill to provide support for the Booker T. Washington Leadership Institute; to the Committee on Education and the Workforce.

By Mr. STARK:

H.R. 3441. A bill to amend title XVIII of the Social Security Act to require the provision of physical therapy, occupational therapy, speech-language pathology services, and respiratory therapy by a comprehensive outpatient rehabilitation facility (CORF) under the Medicare Program at a single, fixed location; to the Committee on Commerce, and in addition to the Committee on Ways and Means, 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. STENHOLM (for himself, Mr. MINGE, Mr. ANDREWS, Mr. PETERSON of Minnesota, Mr. SANDLIN, Mr. HALL of Texas, Mr. BERRY, Mr. BOYD, and Mr. TANNER):

H.R. 3442. A bill to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority; to the Committee on the Budget, and in addition to the Committees on Rules, and Ways and Means, 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. YOUNG of Florida:

H.J. Res. 82. A joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes; to the Committee on Appropriations.

By Mr. YOUNG of Florida:

H.J. Res. 83. A joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes; to the Committee on Appropriations.

By Mr. HUNTER (for himself, Mr. BILBRAY, Mr. PACKARD, and Mr. CUNNINGHAM):

H. Con. Res. 232. Concurrent resolution expressing the sense of Congress concerning the safety and well-being of United States citizens injured while traveling in Mexico; to the Committee on International Relations.

By Mrs. MYRICK:

H. Con. Res. 233. Concurrent resolution urging the President to negotiate a new base rights agreement with the Government of Panama in order for United States Armed Forces to be stationed in Panama after December 31, 1999; to the Committee on International Relations, and in addition to the Committee on Armed Services, 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. WELLER (for himself, Mr. ROGAN, Mr. MATSUI, Mr. FOLEY, Mr. MCKEON, Mr. BUYER, Mr. ENGLISH, Mr. BECERRA, Mr. BERMAN, Mr. MCINTYRE, Mrs. BONO, Mr. KUYKENDALL, Mr. HAYES, and Mr. CONDIT):

H. Res. 384. A resolution calling on the United States Trade Representative Charlene Barshefsky to a make the issue of runaway film production and cultural content restrictions an issue at the World Trade Organization talks in Seattle; to the Committee on Ways and Means.

By Mr. SALMON (for himself, Mr. PAYNE, Mr. GILMAN, Ms. MILLENDER-MCDONALD, Mr. SCARBOROUGH, Mr. WYNN, Mr. MALONEY of Connecticut, Mr. ROTHMAN, Mr. FOLEY, Mr. SHERMAN, Mr. ROGAN, Mr. PASTOR, Ms. JACKSON-LEE of Texas, Mr. EVANS, Mr. CONYERS, Mr. NEY, Mr. THOMPSON of Mississippi, Mr. METCALF, Mr. SMITH of Washington, Mr. DAVIS of Virginia, Mr. FORD, Mr. BECERRA, Mr. ENGEL, Ms. BROWN of Florida, Mr. SABO, Mr. ABERCROMBIE, Mr. FORBES, Mr. HILLIARD, Mr. WELLER, Mr. HORN, Ms. PRYCE of Ohio, Mrs. MEEK of Florida, Mr. TOWNS, Mr. GUTIERREZ, Mr. CHABOT, Mr. CUMMINGS, Mr. OWENS, Ms. ROS-LEHTINEN, Mr. HASTINGS of Florida, Ms. WATERS, Mrs. CAPPS, Mrs. JOHNSON of Connecticut, Mr. JACKSON of Illinois, Mr. MEEKS of New York, Mrs. CLAYTON, Mr. PASCRELL, Mr. DAVIS of Illinois, and Mr. WATT of North Carolina):

H. Res. 388. A resolution expressing the sense of the House of Representatives with respect to government discrimination in Germany based on religion or belief; to the Committee on International Relations.

By Mr. SALMON (for himself, Mr. GILMAN, Mr. MCDERMOTT, Mr. PAYNE, Mr. PORTER, Mr. SCARBOROUGH, Mr. UDALL of Colorado, Mr. FRANK of Massachusetts, Mr. LANTOS, and Mr. FALEOMAVAEGA):

H. Res. 389. A resolution expressing the sense of the House of Representatives with respect to a dialog between the People's Republic of China and Tibet; to the Committee on International Relations.

By Ms. WATERS (for herself, Mr. TOWNS, Ms. LEE, Mr. SANDERS, and Mr. WYNN):

H. Res. 390. A resolution expressing the sense of the House of Representatives concerning the peace process in Angola; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follwos:

H.R. 65: Mrs. FOWLER.
H.R. 73: Mr. WAMP.
H.R. 125: Ms. STABENOW.
H.R. 218: Mr. SMITH of Texas.
H.R. 220: Mr. SESSIONS.
H.R. 259: Mr. BALDACCI.
H.R. 271: Mr. GILMAN and Mr. KLINK.
H.R. 274: Ms. RIVERS.
H.R. 303: Mr. OXLEY and Mrs. Napolitano.
H.R. 347: Mr. WAMP.
H.R. 353: Ms. LEE and Mr. DIAZ-BALART.
H.R. 357: Mr. KLINK.
H.R. 382: Mr. LAMPSON, Mr. MEEHAN, and Mr. RANGEL.
H.R. 453: Ms. BERKLEY.
H.R. 531: Mr. LATHAM, Mr. HASTINGS of Washington, and Mr. DICKS.
H.R. 532: Mr. SCHAKOWSKY.
H.R. 534: Mrs. BIGGERT and Mr. VITTER.
H.R. 568: Mr. MASCARA.
H.R. 623: Mr. HAYWORTH.
H.R. 670: Mr. ACKERMAN, Mr. WEINER, Mr. MORAN of Virginia, Mr. NETHERCUTT, Mr. PORTER, Mr. SALMON, Mr. SMITH of Michigan, Mr. BECERRA, Ms. BERKLEY, Mr. ORTIZ, Mr. TAYLOR of Mississippi, Ms. WATERS, Mrs. WILSON, Mr. WU, Mr. WISE, Mr. BROWN of Ohio, Ms. NORTON, Mr. EDWARDS, Mr. BENTSEN, Mr. BERMAN, Mrs. BIGGERT, Mr. BLUNT, Mr. DREIER, Mr. FILNER, Mr. GILCHREST, Mr. GANSKE Mr. ISAKSON, Mr. LIPINSKI, Mrs. LOWEY, Mr. NADLER, Mrs. MORELLA, Mr. SABO, Ms. SANCHEZ, Mr. UPTON, Ms. ESHOO, Mrs. MCCARTHY of New York, Mr. LAMPSON, Mr. MEEKS of New York, Mr. KASICH, Mr. SHAYS, Mr. CROWLEY, Mr. DAVIS of Illinois, Mr. DEUTSCH, Mr. HORN, Mrs. JOHNSON of Connecticut, Ms. LEE, Mr. MCDERMOTT, Mr. MALONEY of Connecticut, Ms. MILLENDER-MCDONALD, Mr. PALLONE, Mr. POMEROY, and Mr. ROHRABACHER.
H.R. 714: Mr. FORBES.
H.R. 721: Mr. SKELTON, Mr. TURNER, Mr. ADERHOLT, Mr. CRAMER, Mrs. CLAYTON, and Mr. HILLIARD.
H.R. 728: Mr. SANDLIN and Mr. BERRY.
H.R. 730: Mr. MORAN of Virginia.
H.R. 731: Mr. MCGOVERN.
H.R. 735: Mr. GREEN of Texas, Mr. SUNUNU, and Mr. STUPAK.
H.R. 739: Mr. WATT of North Carolina and Mr. BALDACCI.
H.R. 872: Mr. HASTINGS of Florida.
H.R. 875: Mr. MEEHAN.
H.R. 984: Mr. BEREUTER.
H.R. 1044: Mr. POMEROY and Mr. ROGERS.
H.R. 1057: Ms. LEE.
H.R. 1082: Mr. VISCLOSKY.
H.R. 1098: Mr. WALDEN of Oregon.
H.R. 1103: Mr. SANDERS.
H.R. 1146: Mr. EVERETT.
H.R. 1216: Mrs. THURMAN, Mr. PASTOR, Mr. GORDON, and Mr. GEJDENSON.
H.R. 1244: Mr. RADANOVICH.
H.R. 1248: Mr. HOLT and Mr. CLEMENT.
H.R. 1271: Mr. GONZALEZ Mr. FATTAH, Mr. HOLT, Ms. RIVERS, Mr. OWENS, and Mr. RUSH.
H.R. 1274: Mr. CUMMINGS.
H.R. 1307: Mr. FROST, Mrs. BIGGERT, and Ms. MCKINNEY.
H.R. 1322: Ms. CARSON.
H.R. 1323: Mr. MCGOVERN.
H.R. 1371: Mrs. MALONEY of New York and Mr. FALEOMAVAEGA.
H.R. 1388: Mr. BENTSEN.
H.R. 1478: Mr. TIERNEY.
H.R. 1483: Mr. KLINK.
H.R. 1495: Mr. BRADY of Pennsylvania.
H.R. 1515: Ms. SANCHEZ, Ms. BERKLEY, and Mr. LUTHER.
H.R. 1525: Ms. ROYBAL-ALLARD.
H.R. 1543: Mr. TURNER.
H.R. 1581: Ms. BERKLEY.
H.R. 1622: Mr. PALLONE.
H.R. 1636: Mr. CUMMINGS.
H.R. 1684: Mr. CUMMINGS.
H.R. 1732: Mr. BECERRA and Ms. KAPTUR.
H.R. 1785: Mr. SANDERS and Mr. BALDACCI.
H.R. 1806: Ms. MCKINNEY, Ms. ROYBAL-ALLARD, Mrs. JONES of Ohio, and Mr. BERRY.
H.R. 1838: Mr. JONES of North Carolina.
H.R. 1841: Ms. BERKLEY.
H.R. 1871: Mr. RANGEL and Mrs. CHRISTENSEN.
H.R. 1885: Mr. GILMAN.
H.R. 1895: Mr. GORDON.
H.R. 1899: Mr. HOEFFEL and Mr. CASTLE.
H.R. 1967: Mr. EVERETT and Mrs. CHRISTENSEN.
H.R. 1983: Mr. FOLEY.
H.R. 2030: Mrs. CAPPS.
H.R. 2170: Mr. POMEROY.
H.R. 2244: Mr. DUNCAN, and Mr. SENSENBRENNER.
H.R. 2266: Mr. GUTIERREZ and Mr. KANJORSKI.
H.R. 2282: Ms. HOOLEY of Oregon and Mr. LOBIONDO.
H.R. 2345: Mr. KUCINICH.
H.R. 2362: Mr. STEARNS, Mr. DREIER, Mr. MCCOLLUM, and Mr. PITTS.
H.R. 2363: Mr. CHABOT.
H.R. 2420: Ms. MILLENDER-MCDONALD, Mr. BENTSEN, Mrs. CLAYTON, Mr. ANDREWS, Ms. PRYCE of Ohio, Mr. PHELPS, and Mr. SALMON.
H.R. 2498: Mr. BOYD, Mr. KANJORSKI, Ms. PELOSI, and Mr. RUSH.
H.R. 2512: Ms. BERKLEY.
H.R. 2548: Mr. KLINK.

H.R. 2624: Mr. GREEN of Texas and Mr. LANTOS.
H.R. 2650: Mr. BARCIA.
H.R. 2655: Mr. TAYLOR of North Carolina.
H.R. 2697: Mr. THOMPSON of California.
H.R. 2706: Ms. ESHOO and Mr. PRICE of North Carolina.
H.R. 2709: Mr. BOYD, Mr. BERMAN, Mr. POMEROY, Mr. RAMSTAD, Ms. BALDWIN, Mr. RAHALL, Mr. GUTKNECHT, Mr. KUYKENDALL, Mr. HOYER, and Mr. RILEY.
H.R. 2713: Mr. THOMPSON of Mississippi.
H.R. 2733: Ms. HOOLEY of Oregon, Mr. POMEROY, and Mr. LOBIONDO.
H.R. 2738: Mr. RUSH.
H.R. 2749: Mr. POMEROY.
H.R. 2776: Ms. BALDWIN and Ms. BERKLEY.
H.R. 2790: Mr. WYNN, Mr. PAYNE, Mr. MCNULTY, Mr. HOEFFEL, and Mr. KENNEDY of Rhode Island.
H.R. 2801: Ms. HOOLEY of Oregon.
H.R. 2865: Ms. WOOLSEY and Mr. RANGEL.
H.R. 2867: Mr. PITTS.
H.R. 2878: Ms. LEE.
H.R. 2891: Mr. OXLEY.
H.R. 2892: Mr. EVANS.
H.R. 2895: Mr. RUSH, Mr. MCNULTY, Ms. SLAUGHTER, and Mr. HOEFFEL.
H.R. 2899: Mr. TIERNEY.
H.R. 2900: Mrs. JOHNSON of Connecticut.
H.R. 2902: Mrs. CHRISTENSEN, Mrs. CLAYTON, Mr. DINGELL, Mr. LUTHER, and Mr. ROMERO-BARCELO.
H.R. 2925: Mr. BASS and Mr. KOLBE.
H.R. 2966: Mr. ADERHOLT, Mr. ALLEN, Mr. BRADY of Pennsylvania, Mrs. CLAYTON, Mr. COMBEST, Mrs. CUBIN, Mr. DIXON, Mr. EVERETT, Mr. FLETCHER, Mr. GILCHREST, Mr. GILMAN, Mr. HAYES, Mr. HILL of Montana, Mr. INSLEE, Mr. JENKINS, Mr. JONES of North Carolina, Mrs. KELLY, Mr. LAMPSON, Mr. LANTOS, Mr. LEWIS of Georgia, Mr. LEWIS of Kentucky, Mr. MCINTOSH, Mr. MICA, Mr. NEY, Mr. PAUL, Mr. PRICE of North Carolina, Mr. RODRIGUEZ, Mr. SESSIONS, Mr. SMITH of Washington, Mr. TOWNS, Mr. WICKER, Mrs. WILSON and, Mr. WISE.
H.R. 2969: Mr. BARRETT of Wisconsin and Mr. ENGLISH.
H.R. 2995: Mr. BARCIA.
H.R. 3006: Mr. KUCINICH.
H.R. 3011: Mr. TERRY.
H.R. 3058: Ms. MCKINNEY.
H.R. 3091: Mr. GEPHARDT, Mr. LEWIS of Georgia, Ms. ROS-LEHTINEN, Mr. NEAL of Massachusetts, Mr. MENENDEZ, Mr. CAPUANO, Mr. KLECZKA, Mr. PHELPS, Mr. SHOWS, Mr. DEFAZIO, Mr. ANDREWS, Ms. MCKINNEY, Mr. BISHOP, Mr. SABO, Ms. NORTON, Mr. PALLONE, Mr. OBEY, Mr. NETHERCUTT, Mr. PRICE of North Carolina, Mr. BOSWELL, Mr. LEVIN, Mr. BERRY, Mr. SKELTON, Mr. ROTHMAN, Ms. DANNER, Ms. BERKLEY, Ms. ROYBAL-ALLARD, Mr. MORAN of Virginia, Mr. METCALF, Mr. DAVIS of Illinois, Mr. DEUTSCH, Mr. HOEFFEL, Mr. QUINN, Mr. BAIRD, Mr. BARCIA, Mr. KIND, Mr. VISCLOSKY, Mr. SMITH of Washington, Mr. COYNE, Mr. UDALL of New Mexico, Mr. MATSUI, Mrs. KELLY, Mr. BALDACCI, Mr. SHERWOOD, Mr. DIXON, Mr. BORSKI, and Mr. SNYDER.
H.R. 3099: Mrs. THURMAN.
H.R. 3107: Mr. KLINK, Mr. BENTSEN, and Mrs. MORELLA.
H.R. 3115: Mr. ROGERS.
H.R. 3141: Mr. MALONEY of Connecticut.
H.R. 3158: Mrs. MALONEY of New York and Mrs. CHRISTENSEN.
H.R. 3161: Mr. HOUGHTON.
H.R. 3180: Ms. PRYCE of Ohio and Mr. LUCAS of Kentucky.
H.R. 3192: Mr. BERRY.
H.R. 3235: Ms. MILLENDER-MCDONALD and Mr. GEORGE MILLER of California.
H.R. 3248: Mr. NORWOOD, Mr. WHITFIELD, and Mr. CANADY of Florida.
H.R. 3278: Mr. JONES of North Carolina, and Mr. BURR of North Carolina.
H.R. 3293: Mr. ROGERS and Ms. MILLENDER-MCDONALD.
H.R. 3294: Mr. THORNBERRY.
H.R. 3295: Mr. CONYERS, Mr. BERMAN, Mr. OBERSTAR, Mr. DAVIS of Virginia, and Ms. LOFGREN.
H.R. 3301: Ms. STABENOW, Mr. SANDERS, Mr. FOLEY, Mr. SERRANO, Ms. ROYBAL-ALLARD, and Mr. SHAYS.
H.R. 3319: Mr. ACKERMAN and Mr. RANGEL.
H.R. 3320: Mr. KLECZKA, Ms. MCCARTHY of Missouri, Mr. BLUMENAUER, Mr. SANDERS, Mr. CONYERS, Mr. FATTAH, Mr. MEEHAN, and Mr. COYNE.
H.R. 3324: Mr. THOMPSON of Mississippi, Mr. PASTOR, Mr. HILLIARD, Mr. LEACH, Mr. FARR of California, Mr. PHELPS, and Mr. KAPTUR.
H.R. 3382: Mr. SAXTON, Mr. FRANKS of New Jersey, Mr. SMITH of New Jersey, and Ms. ROS-LEHTINEN.
H.J. Res. 53: Mr. ISAKSON.
H.J. Res. 55: Mr. GEKAS.
H.J. Res. 64: Mr. ROYCE.
H.J. Res. 70: Mrs. MYRICK and Mr. ROHRABACHER.
H.J. Res. 77: Mr. ROGAN, Mr. COLLINS, Mr. HEFLEY, Mr. STUMP, Mr. BAKER, Mr. WAMP, Mr. DUNCAN, Mr. GOODE, Mr. BURTON of Indiana, Mr. TRAFICANT, and Mrs. CUBIN.
H. Con. Res. 38: Mr. PASCRELL, Mr. HOLT, Mrs. ROUKEMA, Mr. ANDREWS, and Mr. ROTHMAN.
H. Con. Res. 62: Mr. DELAHUNT.
H. Con. Res. 74: Mr. LANTOS.
H. Con. Res. 80: Mr. INSLEE.
H. Con. Res. 115: Mr. WATT of North Carolina.
H. Con. Res. 152: Ms. VELAZQUEZ.
H. Con. Res. 177: Mr. GEORGE MILLER of California, Mr. FALEOMAVAEGA, and Mr. CONYERS.
H. Con. Res. 218: Mr. DAVIS of Illinois, Mr. JACKSON of Illinois, Mr. COSTELLO, Mr. MOORE, Ms. LEE, Ms. BERKLEY, Mr. CLAY, and Mr. HOYER.
H. Con. Res. 220: Ms. ESHOO.
H. Con. Res. 228: Mr. MALONEY of Connecticut, Mr. MANZULLO, and Ms. LOFGREN.
H. Res. 107: Mrs. ROUKEMA, Mrs. MCCARTHY of New York, Ms. BROWN of Florida, Mr. CROWLEY, Mr. TOWNS, Mr. SAWYER, Mr. EVANS, Mr. ROMERO-BARCELO, and Mr. KUCINICH.
H. Res. 237: Mr. DIAZ-BALART.
H. Res. 238: Ms. HOOLEY of Oregon and Mr. POMEROY.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

67. The SPEAKER presented a petition of the Office of the City Clerk, Syracuse Common Council, relative to Resolution No. 59–R petitioning Congress and the President to enact a ''Jonny Gammage Law'' to protect the public from the illegal and excessive use of force by police officers and eliminate conflicts of interest within local judicial systems; to the Committee on the Judiciary.

68. Also, a petition of the Southern Governors' Association, relative to a resolution petitioning the United States for the speedy passage of legislation enhancing the Caribbean Basin Initiative program to foster the evolution of economic development and trade opportunities in Central America and the Caribbean; to the Committee on Ways and Means.

69. Also, a petition of the Southern Governors' Association, relative to a resolution petitioning Congress and federal agencies regarding U.S. drug interdiction efforts in the Caribbean Basin; jointly to the Committees on the Judiciary and International Relations.

NOTICE

The Conference Report No. 106–479 will be printed in Book II of today's Record.

United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *106th* CONGRESS, FIRST SESSION

Vol. 145 WASHINGTON, WEDNESDAY, NOVEMBER 17, 1999 *No. 163*

Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

REVISED NOTICE—NOVEMBER 17, 1999

If the 106th Congress, 1st Session, adjourns sine die on or before November 18, 1999, a final issue of the Congressional Record for the 106th Congress, 1st Session, will be published on December 3, 1999, in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT–60 or S–123 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m. through December 1. The final issue will be dated December 3, 1999, and will be delivered on Friday, December 4, 1999.

If the 106th Congress does not adjourn until a later date in 1999, the final issue will be printed at a date to be announced.

None of the material printed in the final issue of the Congressional Record may contain subject matter, or relate to any event that occurred after the sine die date.

Senators' statements should also be submitted electronically, either on a disk to accompany the signed statement, or by e-mail to the Official Reporters of Debates at ''Records@Reporters''.

Members of the House of Representatives' statements may also be submitted electronically by e-mail or disk, to accompany the signed statement, and formatted according to the instructions for the Extensions of Remarks template at http://clerkhouse.house.gov. The Official Reporters will transmit to GPO the template formatted electronic file only after receipt of, and authentication with, the hard copy, signed manuscript. Deliver statements (and template formatted disks, in lieu of e-mail) to the Official Reporters in Room HT–60.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the Congressional Record may do so by contacting the Congressional Printing Management Division, at the Government Printing Office, on 512–0224, between the hours of 8:00 a.m. and 4:00 p.m. daily.

By order of the Joint Committee on Printing.

WILLIAM M. THOMAS, *Chairman.*

NOTICE

Effective January 1, 2000, the subscription price of the Congressional Record will be $357 per year, or $179 for 6 months. Individual issues may be purchased for $3.00 per copy. The cost for the microfiche edition will remain $141 per year; single copies will remain $1.50 per issue. This price increase is necessary based upon the cost of printing and distribution.

MICHAEL F. DiMARIO, *Public Printer.*

● This ''bullet'' symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The PRESIDENT pro tempore. We will now be led in prayer by Father Paul Lavin, St. Joseph's Catholic Church, Washington, DC.

We are pleased to have you with us.

PRAYER

The guest Chaplain, Father Paul Lavin, offered the following prayer:

In the book of Ecclesiastes we hear:

A good name is better than ointment, and the day of death than the day of birth.

It is better to harken to a wise man's rebuke than to harken to the song of fools;

For as the crackling of thorns under a pot, so is the fool's laughter.

Better is the end of speech than its beginning; better is the patient spirit than the lofty spirit.—Eccl. 7:1–8.

Let us pray:

As this session of the Senate draws to a close, let the end of our speech be better than the beginning. Let the decisions we have made and the ones we will make in these closing hours reflect Your will and be pleasing to You.

May the time we and our staffs spend with our families and with those we represent be really times of re-creation in Your Spirit, and may all of us return here safely.

May the gifts of the Father, Son, and Holy Spirit unite us in faith, hope, and love, now and forever. Amen.

PLEDGE OF ALLEGIANCE

The Honorable WAYNE ALLARD, a Senator from the State of Colorado, led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The Senator from Oregon is recognized.

Mr. SMITH of Oregon. Mr. President, today the Senate will resume consideration of the pending Wellstone amendment with 1 hour of debate remaining under the previous agreement. After all time is used or yielded back, the Senate will proceed to a vote on the Wellstone amendment, which will be followed by a vote on the Moynihan amendment No. 2663. Therefore, Senators can expect two back-to-back votes to begin at approximately 10:30 a.m. It is hoped that further progress can be made on the appropriations process during today's session, and therefore votes can be anticipated throughout the day. It is also hoped that an agreement can be reached regarding the remaining amendments to the bankruptcy reform bill so that the Senate can complete the bill prior to the impending adjournment.

I thank my colleagues for their attention.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER (Mr. ALLARD). Under the previous order, the leadership time is reserved.

BANKRUPTCY REFORM ACT OF 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 625, which the clerk will report.

The bill clerk read as follows:

A bill (S. 625) to amend title 11, United States Code, and for other purposes.

Pending:

Feingold amendment No. 2522, to provide for the expenses of long term care.

Hatch/Torricelli amendment No. 1729, to provide for domestic support obligations.

WELLSTONE amendment No. 2537, to disallow claims of certain insured depository institutions.

Wellstone amendment No. 2538, with respect to the disallowance of certain claims and to prohibit certain coercive debt collection practices.

Feinstein amendment No. 1696, to limit the amount of credit extended under an open end consumer credit plan to persons under the age of 21.

Feinstein amendment No. 2755, to discourage indiscriminate extensions of credit and resulting consumer insolvency.

Schumer/Durbin amendment No. 2759, with respect to national standards and homeowner home maintenance costs.

Schumer/Durbin amendment No. 2762, to modify the means test relating to safe harbor provisions.

Schumer amendment No. 2763, to ensure that debts incurred as a result of clinic violence are nondischargeable.

Schumer amendment No. 2764, to provide for greater accuracy in certain means testing.

Schumer amendment No. 2765, to include certain dislocated workers' expenses in the debtor's monthly expenses.

Dodd amendment No. 2531, to protect certain education savings.

Dodd amendment No. 2753, to amend the Truth in Lending Act to provide for enhanced information regarding credit card balance payment terms and conditions, and to provide for enhanced reporting of credit card solicitations to the Board of Governors of the Federal Reserve System and to Congress.

Hatch/Dodd/Gregg amendment No. 2536, to protect certain education savings.

Feingold amendment No. 2748, to provide for an exception to a limitation on an automatic stay under section 362(b) of title 11, United States Code, relating to evictions and similar proceedings to provide for the payment of rent that becomes due after the petition of a debtor is filed.

Schumer/Santorum amendment No. 2761, to improve disclosure of the annual percentage rate for purchases applicable to credit card accounts.

Durbin amendment No. 2659, to modify certain provisions relating to pre-bankruptcy financial counseling.

Durbin amendment No. 2661, to establish parameters for presuming that the filing of a case under chapter 7 of title 11, United States Code, does not constitute an abuse of that chapter.

Torricelli amendment No. 2655, to provide for enhanced consumer credit protection.

Wellstone amendment No. 2752, to impose a moratorium on large agribusiness mergers and to establish a commission to review large agriculture mergers, concentration, and market power.

Moynihan amendment No. 2663, to make certain improvements to the bill with respect to low-income debtors.

AMENDMENT NO. 2752

The PRESIDING OFFICER. Under the previous order, there will now be 1 hour of debate on the Wellstone amendment No. 2752.

Who yields time?

Mr. GRASSLEY. Mr. President, maybe to be fair to everybody, I better suggest the absence of a quorum and that time would be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. 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. WELLSTONE. Mr. President, I yield 10 minutes to Senator DORGAN.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, first of all, I commend Senator WELLSTONE for his leadership on this issue. I rise to support the amendment that he has offered. I have been involved with Senator WELLSTONE in constructing this proposal. The proposal very simply is to try to have a time out of sorts with respect to the mergers that are occurring in the agricultural processing industries. The question at the root of all of this is, What is the value of a family farm in our country and do we care about whether this country has family farmers in its future?

If we do, if we care about keeping family farmers in our country's future, then we must do something about the concentration that is occurring and plugging the arteries of the free market system in the agricultural economy. Family farmers are not able to compete in a free and open system. It is just not happening. Why? Because of these mergers and concentration in the large agricultural industries.

Let me show you with this chart what is happening to family farmers. The family farm share of the retail cereal grains dollar has gone down, down, and way down. Why? Why is the family farm share of the food dollar going down? Because as my friend from Minnesota likes to say, the big food giants have muscled their way to the dinner table. He is absolutely correct. They are grabbing more of the food dollar. The family farmer gets less. The food processors are making substantial amounts, record dollars, and the family farmers are, unfortunately, not able to make it.

The farm share of the retail pork dollar is down, down, way down. The family farm share of the retail beef dollar? Exactly the same thing.

Why is all of this occurring? Because concentration in these industries means there are fewer firms. For example, in market concentration in meat processing, in beef, the top four firms

control 80 percent of the profits; in sheep, 73 percent; pork, 57 percent. Exactly the same is true in grain. Wet corn milling, 74 percent, the top four companies.

The point is, this massive concentration is plugging the arteries of the market system. There isn't competition, or at least the kind of competition that is fair competition for family farms.

Now, our proposal is very simple. It proposes a moratorium on certain kinds of mergers. We are talking only about the largest firms. And then during that moratorium for 18 months we have a commission review the underlying statutes that determine what is competitive and what is anticompetitive.

There are people here who don't care about family farmers. They say, if the market system would decide that family farms should continue, then they will continue. And if the market system is ambivalent to it, then we won't have family farmers. But that is because the view of such people matches the view of economists, which is that you can value only that which you can measure in quantitative terms. If you can attach dollars and cents to it, then it has value. If you can't, it doesn't. The fact is, family farm enterprises have value far beyond their production of corn or wheat. Family farms in my State produce much more than their crops. They also produce a community. They have a social product as well as a material product.

Now, this product is invisible to economists and to policy experts who only see what they can count in money, but it is crucially important to our country. We tend to view our economy as a kind of Stuff Olympics: Those who produce the most stuff win. We are a country that produces more stuff than we need in many areas but much less of what we really need in other areas. And one such thing we lack is the culture and the opportunity we get when we continue a network of family farms. Europeans call this contribution ''multifunctionality.'' That is just a fancy way of saying that an enterprise can serve us in more ways than an economist can give credit for. A small town cafe is much more to that small town than its financial statement. It is the hub of the community. It is the hub of interaction, the crossroads where people meet rather than be blips on a computer screen. The same is true with family farms. It is much more important to this country than the financial receipts would show.

To those who do not care much about family farms, none of this matters. To those of us who believe a network of family farms preserved for our future enhances and strengthens this country, we believe very strongly that we must take actions to give family farmers a chance to survive.

One of those actions—only one—is to say, let us stop this massive concentration in the giant food industries that is choking the life out of family farms. Why is it that when you buy a loaf of bread, the amount of money the farmers get from that loaf of bread is now not even the heel, it is less than the heel?

Why is it that anyone in the food processing industry who touches that which farmers produce—wheat, corn, soybeans, and more—makes record profits, but the farmers are going broke?

Why is it that a farmer who gases a tractor, plows the land, and nurtures the grain all summer, combines it and harvests it in the fall, goes to the elevator only to be told the county elevator and the grain trade have described that food as worthless. Then someone gets hold of that same grain and crisps it, shreds it, flakes it, puffs it, puts it in a box and gets it on the grocer's shelf. The grain then sells for $4 or $5 a box, and all of a sudden it has great value as puffed or shredded wheat. The processor makes record profits and family farmers are making record losses.

Why is that? Because this system does not stack up. It does not stack up in a manner that allows fair, free, and open competition. When you have this kind of concentration, there is not a free market. That is true in the grain processing industry, it is true in meat, and it is true as well in the other areas I have discussed.

Family farmers are seeing record declines in their share of the cereal dollar while everyone else who handles the grain the farmer produced is making a record profit. That is the point.

I am for a free, fair, and open economy and fair competition. But our economic system today is not providing that because some are choking the life out of family farmers by clogging the marketplace with unfair competition. We have antitrust laws to deal with this. They are not very effective, frankly. When Continental and Cargill can decide to marry, and are then sufficiently large to create a further anticompetitive force in this market, then there is something wrong with the underlying antitrust laws.

This bill is not a Cargill-Continental bill, incidentally. It is not aimed at any specific company. It is aimed rather at having a timeout on the massive orgy of mergers that is occurring at the upper level of the corporate world, $100 million or more in value, and at evaluating what is happening to the market system.

If we believe in the free market, we have to nurture that free market and protect it. A free market exists when you have free, fair, and open competition.

The last antitrust buster of any great note was Teddy Roosevelt at the start of the century saying the robber barons of oil could not continue to rob the American people.

My point is that if we want to keep family farms in our future, we must take bold and aggressive action to make certain that competition is fair to family farms. Today, it is not. They are losing their shirts primarily because of the unfair competition that comes from substantial concentration.

My point, to conclude, is we lose something very significant, much more than economists can measure, when we decide we will not care about the destruction of the network of family farms in this country. Europe has 7.5 million family farms dotting the landscape because they decided long ago that these contribute much more to their culture and economy than what the balance sheet shows in numbers. They do in this country as well. It is time we take bold action to do something about it.

The first step, a modest step in my judgment, proposed by the Senator from Minnesota, myself, and others is to do something about antitrust, the concentration that is clogging the free market, taking money away from family farmers and putting us in a position where the family farm in this country is devastated.

We can stop this. This is not rocket science. Good public policy directed in the right area will give economic help and opportunity to families who are attempting to farm in America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I rise again to oppose the Wellstone amendment. I stand here as perhaps one of the only Members of the Senate who has made his living from agribusiness, specifically as a food processor. I think I know of what I speak this morning.

I tell my colleagues, if they are listening via TV or however, this is a vote about whether or not you believe and trust in the free-market system.

I also rise as somebody who cares a great deal about farmers. I have voted consistently for farm aid in its many forms as we try to provide it in the Senate. But I am saying the Wellstone amendment will not turn around the ag economy. It does nothing to open overseas markets. It does nothing about global oversupply of grain, and it does nothing to relieve the onerous regulatory burdens placed on family farmers by the Federal Government, such as estate taxes, the unworkable H–2A program, the way the Food Quality Protection Act is being implemented, or the loss of water rights. It goes on and on.

The family farmer is more under assault by regulation by this Government than it has ever been by the food processing industry. Frankly, what we are saying is the food processor who perhaps wants to buy 100 million pounds of grain but is offered 200 million pounds because it is produced is somehow to be penalized by the Senate for participating in the free market. It is not right. It is not our system.

The Wellstone amendment implies that the Antitrust Division at the Justice Department is incapable of handling these agribusiness mergers. Yet the evidence is to the contrary. This is the same Antitrust Division that has required numerous divestitures in recent agribusiness acquisitions, such as the Cargill-Continental, Monsanto-Dekalb Genetics Corporation. This is the same Antitrust Division that rigorously pursued antitrust proceedings against Microsoft.

Antitrust policy has an important implication to American business and deserves the scrutiny of the Judiciary Committee, not posturing on the floor of the Senate. Senator HATCH, the chairman of the Judiciary Committee, has already announced there will be in his committee hearings on agribusiness concentration, as there ought to be, but not here, not this way, not this amendment.

The Wellstone amendment additionally is not evenhanded in its approach. It exempts agricultural cooperatives, some of which are large agribusinesses in their own right. I know from my own experience how to take a small company and make it big by the inefficiencies of the large companies. The Wellstone amendment will prevent mergers that are often necessary to keep plants competitive, employing people in rural and urban areas, and providing important outlets for farm products.

It does not distinguish between good mergers and bad mergers. Some of these things have to happen because there is an oversupply of food processors, in fact. The same market forces that are affecting the farmer also affect the food processor.

The WELLSTONE amendment will effectively guarantee that no medium-size agribusiness will be capable of growing large enough to rival the scale of the existing large agribusinesses. Again, I say the American dream is for the little guy to become a big guy. This says the food processor has one of two options if he is in trouble: He can either struggle and try to continue or else he can go bankrupt. I point out if you are interested in farmers, remember that more than two-thirds of the farmers of this country do not grow for the agricultural cooperatives; they grow for stock-held-owned companies.

The Wellstone amendment will not deconcentrate agribusiness, but it will ensure small- and medium-size agribusinesses are prevented from taking advantage of the same efficiencies enjoyed by their larger competitors. Frankly, the kind of distrust of the market represented by this amendment is the kind of thing we should expect from the Duma in Russia and the National Assembly of France but never from the Senate.

In conclusion, I appeal to my colleagues' common sense. This amendment is before us today in the name of saving family farmers.

I ask my colleagues to consider for a moment just who supplies the family farmer with critical crop inputs, such as seed and fertilizer. Who does the family farmer sell their production to for processing and marketing? The answer, in most cases, of course, is agribusinesses, the one sector of the economy that is being singled out today for a federally mandated merger moratorium that is certainly a counter to the free market that I believe we value in this country.

I remind my colleagues that agribusinesses and farmers are intertwined and interdependent. They are under the same market forces on both sides. When the very visible hand of government intervention in the market place is raised in an attempt to punish agribusinesses, inevitably it will punish family farmers, too.

I say again, most farmers do not grow for agricultural cooperatives. They often grow for small family food processors. So what happens to them? Ultimately, no matter the good intentions of those who are behind this amendment because I stand with them when it comes to trying to help the family farmer, I just simply say this is not the way.

I ask unanimous consent to have printed in the RECORD an editorial from not my paper but I believe it is Senator WELLSTONE's paper, the Star Tribune in Minneapolis.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Star Tribune, Nov. 15, 1999]

GIANT KILLER: WELLSTONE'S MISGUIDED AG MERGER PLAN

In the great tradition of prairie populism, Sen. Paul Wellstone has responded to the current farm recession by calling for a federal moratorium on big agribusiness mergers. As a cry of alarm for farmers, this is useful politics. But as a device to restore commodity prices, it is practically pointless, and as a tool of antitrust policy, it is exceedingly blunt.

When it resumes debate on the topic this week, the Senate should embrace Wellstone's plan for an agricultural antitrust commission, but it should reject the notion of blocking all mergers, good and bad.

Wellstone is right about one thing: Consolidation in agribusiness is perfectly real and genuinely troublesome. A series of agronomy mergers has greatly reduced the number of companies that sell seed and fertilizer to farmers. Meanwhile, the top four meatpacking companies have doubled their share of the beef and pork markets since 1980, to 80 percent and 54 percent respectively.

But that trend has nothing to do with this year's commodities collapse, which stems almost entirely from a glut of grain in world markets. Just three years ago, farmers were receiving near-record prices, yet the grain and meat industries already were highly concentrated. Milk processing is just as concentrated as grain or meat, yet dairy farmers earned huge profits last year.

Whether consolidation inflicts long-term damage is harder to know. One federal study found that large meat packers discriminate against small livestock farmers, and another found that big beef processors were able to drive down cattle prices by about 4 percent. But several other studies by the U.S. Department of Agriculture (USDA) have found that big, efficient meatpackers improve quality control and save money for consumers. One USDA study even found that livestock farmers got higher prices as the beef industry consolidated, apparently because highly efficient meatpackers passed along some of their savings in the form of higher prices to farmers.

To support an outright merger moratorium, you would have to believe that all mergers are wrong or that the current group of federal antitrust regulators is incapable of sorting good from bad.

But neither proposition holds up. The 1986 merger of Hormel Foods and Jennie-O Foods, for example, greatly expanded the state's turkey industry while improving the competitiveness of two venerable Minnesota companies. When Michael Foods of St. Louis Park bought Papetti Hygrade of New Jersey in 1997, it enabled two modest egg-processors to survive against much bigger world rivals. Nor is it clear that federal regulators are asleep at the switch. The Justice Department put Cargill Inc. through an antitrust wringer this year before downsizing its purchase of part of Continental Grain.

As usual, however, there is something smoldering when Wellstone smells smoke. The Justice Department needs more staff and more money to keep up with a tidal wave of merger applications. His proposed antitrust commission should study whether consolidation in agribusiness is reducing the diversity and independence of American farming.

Wellstone isn't grandstanding when he says that thousands of farmers are in genuine trouble this year. But that doesn't mean the populists should get whatever they want, or that what they want would be good for farmers if they got it.

Mr. SMITH of Oregon. The first paragraph states:

In the great tradition of prairie populism, Sen. Paul Wellstone has responded to the current farm [crisis] by calling for a federal moratorium on big agribusiness mergers. As a cry of alarm for farmers, this is useful politics. But as a device to restore commodity prices, it is practically pointless, and as a tool of antitrust policy, it is [an] exceedingly blunt [instrument].

I join with this editorial in saying that Senator WELLSTONE's motives are good, but his means are just simply misdirected in this case.

Ultimately, no matter the good intentions of those who are behind this amendment, it is the family farmers who will pay the greatest price for hobbling the innovation and competitiveness of small- and medium-sized agribusinesses in such a sweeping way.

The consequences of the Wellstone amendment run contrary to the stated objectives of its supporters. It will not spur new competition in the large agribusiness sector. It will not induce higher commodity prices for producers. It would be a vote of no confidence in the ability of the antitrust division to enforce our existing antitrust statutes.

So I plead with my colleagues, if they can hear my voice. I ask them to vote no on the Wellstone amendment. This is not the way to help the family farmer. We should trust the marketplace, unless we as a government are prepared to subsidize even more and more aspects of our agriculture in this country. We already do a great deal. We may yet need to do more. But we must

not do more in this way, in this Senate, in this time.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Will the Chair be kind enough to notify me when I have used up 10 minutes of my time?

The PRESIDING OFFICER. Yes; the Chair will do that.

Mr. WELLSTONE. I thank the Chair.

Mr. President, before we get right into the debate, I wish to also mention another debate in agriculture and say to my colleagues from some of our Midwest dairy States that I share their indignation at the way in which the extension of the Northeast Dairy Compact and the blocking of the milk marketing order reform by the Secretary of Agriculture—kind of two hits on us—has been put into a conference report. We voted on this on the floor of the Senate. This was not passed by either House. Yet it was tucked into a conference report.

I think it is an outrageous process. I think people are sick and tired of these backroom deals. I intend to be a part of every single effort that is made by Senators KOHL, FEINGOLD, GRAMS, myself, others, to raise holy heck about this.

After having said that, let me respond to some of the comments on the floor. First of all, I thank my colleague, Senator DORGAN, for offering this amendment with me. As long as my colleague from Oregon represents that tradition of populism, this is Senator DORGAN. It is who he is. Frankly, I think it is all about democracy and all about the market.

Also, I ask unanimous consent that Senators JOHNSON and FEINGOLD be added as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. I say to my colleague from Oregon and others, that as much respect as I have for the Minnesota Star Tribune, I am not all that troubled that sometimes we disagree and that there is an editorial that is in opposition to this amendment because, frankly, this amendment comes from the countryside. This comes from the heartland. This comes from the heart of our farm and rural communities. That is where this amendment comes from. I say that to all Senators, Democrats and Republicans alike.

I also say to my colleague from Oregon, actually this is all about the market. This has nothing to do with Russia or whatever country he mentioned. Quite to the contrary, this is all about putting some free enterprise back into our economy. This is about putting free enterprise back into the free enterprise system. This is about the Sherman Act and the Clayton Act and Senator Estes Kefauver and a great tradition of antitrust action. That is what this is about.

This is about making sure we have competition. This is making sure that our producers—the one, if you will, free enterprise sector in this food industry—have a chance to survive. That is what this is about. This is as old fashioned and pro-American and a part of the history of our country as you can get, from Thomas Jefferson to Andrew Jackson, right up to now.

Let me be clear about that. This is a very modest amendment. What it says is that until we develop some kind of comprehensive solution to the problem of extreme concentration in our agricultural markets, and anticompetitive practices of the few large conglomerates that have muscled their way to the dinner table, and are driving our producers out, we ought to take a ''timeout'' on these mergers and acquisitions—not of small businesses but of large agribusinesses.

This timeout could last as long as 18 months but no longer. It could also be terminated well short of 18 months by passage of some legislation, which is what I hope we will be serious about, to deal with this problem of concentration.

This is a historic debate and a historic vote because, you know what, we are going to have to deal with the whole question of monopoly power and whether or not we need to have more competition and free enterprise in our free enterprise system in a lot of sectors of this economy. That is what Viacom buying up CBS is all about. That is what the proposed merger of Exxon and Mobil is all about. That is what the rapid consolidations and mergers in all these sectors of the economy, where you have a few firms that dominate, I think to the detriment of our consumers and our small businesses, is all about.

If we pass this timeout, we are still going to need to revisit this problem of concentration within the next 18 months. We have to do so and pass legislation. What we cannot do is pass this legislation today. So what we want to do is put a hold on these colossal agribusiness mergers that are occurring on an almost daily basis. What we are saying is, let's pass legislation that puts some competition back into the food industry, that gives our family farmers, our producers a chance. But until we do that, let's take a timeout so we can put a stop to some of these colossal agribusiness mergers that are taking place at a breathtaking pace every single day.

This amendment also is intended to create an incentive for the Congress to develop a more comprehensive solution on an expedited basis.

Last week, if my colleagues need any evidence, the Wall Street Journal reported that Novartis and Monsanto, two of the largest agribusiness giants, may be merging. The Journal accurately states:

> . . . the industry landscape seems to be changing every day.

In fact, the ground is constantly shifting beneath our feet, and soon it is going to be too late to do anything about it. That is exactly why we need a timeout. These mergers build momentum for more mergers, and these large companies are all saying that we have no other choice, given what is going on right now, but to merge and get bigger and bigger and bigger. Just imagine what the effect of a merger between Monsanto and Novartis would mean. It would obviously put more pressure on more firms to join in on one of these emerging handful of food chain clusters that are poised to control our agricultural markets.

This timeout we are proposing today is intended to lessen those pressures and to arrest this trend before it is too late. That is what this is all about. This amendment is all about whether or not our producers are going to have a chance. This is an amendment that is all about whether or not rural communities are going to be able to make it. This amendment is all about whether or not farmers are going to be able to get a decent price. When you are at an auction and you are trying to sell something and you only have three buyers, you are not going to get much of a price. That is exactly what is happening in agriculture today.

This is all about competition. This is all about America. This is all about Jeffersonian tradition and whether or not Senators are on the side of family farmers or whether they are on the side of these large conglomerates. We have horizontal concentration taking place. Whether we are looking at the beef packers or at pork or grain or whether we are looking at every single sector, we have four companies that control 50, 60, 70 percent of the market. That is not competition. Economics 101: It is oligopoly, at best, when you have four firms that control over 50 percent of the market.

The scarier thing is the vertical integration. When one firm expands its control over various stages of food production, from the development of the animal or plant gene to production of fertilizer and chemical inputs, to actual production, to processing, to marketing and distribution to the supermarket shelf, is that the brave new world of agriculture we want to see? That is exactly the trend we are experiencing today.

I quote an April 1999 report by the Minnesota Land Stewardship Project. I think it is right on the mark:

> Packers' practice of acquiring captive supplies through contracts and direct ownership is reducing the number of opportunities for small- and medium-sized farmers to sell their hogs;

As a matter of fact, our hog producers are facing extinction, and these packers are in hog heaven. We want to know, who is making the money? How can it be that these corporate agribusinesses are making record profits while our producers are going under?

The Land Stewardship Project goes on to say:

> With fewer buyers and more captive supply, there is less competition for independent

farmers' hogs and insufficient market information regarding price; and lower prices result.

Leland Swensen, president of the National Farmers Union, recently testified:

The increasing level of market concentration, with the resulting lack of competition in the marketplace, is one of the top concerns of farmers and ranchers. At most farm and ranch meetings, market concentration ranks as either the first or second priority of issues of concern. Farmers and ranchers believe that lack of competition is a key factor in the low commodity prices they are receiving. So our corporate agribusinesses grow fat, and our farmers are facing lean times.

I wasn't born yesterday. I understand what has been going on since we introduced this amendment. I know the folks who have been making the calls. We are up against some of the largest agribusinesses, some of the largest multinational corporations, some of the largest conglomerates you could ever be up against.

Let us talk about this very practical and modest proposal.

The PRESIDING OFFICER (Mr. GRAMS). As requested by the Senator, he has used his first 10 minutes.

Mr. WELLSTONE. I thank the Chair.

First, the standard we use is the standard that now exists under the Clayton Act, which is whether or not a merger may be substantially to lessen competition or tend to create a monopoly. Second, we are talking about the largest mergers in which both parties have annual net revenues over $100 million. This is not small business—both parties with annual revenues over $100 million.

Third, some of my colleagues were concerned about the possibility of facing financial insolvency. We address the problem. In this amendment is language which makes it clear that the Attorney General would have the authority to waive this moratorium in extraordinary circumstances, such as financial insolvency or similar financial distress. We have another waiver authority which goes to the Secretary of Agriculture.

Some colleagues said, what about mergers and acquisitions that actually are procompetitive? What we are going to do is to say, under modification, that USDA could waive the moratorium for deals that don't increase concentration to levels that are determined to be detrimental to family farmers. This moratorium or timeout won't even take effect for 18 months because presumably we are going to act earlier.

We have to do something about this merger mania. We have to do something about getting some competition back into the food industry. We have to do something that is on the side of family farmers. This timeout, with all of the provisions we have which make it so reasonable—and we are still in negotiation with our colleague from Iowa, who I know cares fiercely about this—ought to lead to an amendment that should generate widespread support.

I reserve the remainder of my time.

Mr. HATCH. Mr. President, I rise to speak in opposition to the amendment by the Senator from Minnesota that would impose an 18-month moratorium on mergers in the food processing industry. While I oppose this amendment, I understand Senator WELLSTONE's motivation in offering it. I share his concern over the rapid vertical and horizontal integration in the food processing industry and the effect this trend may have had on family farmers.

The livestock industry for beef cattle and hogs has experienced low prices for too long. In fact, the price for live hogs recently reached its lowest level since the Great Depression. Family farms are the backbone of our rural communities, yet family farms are failing. Farmers now receive 36 percent less for their products than they did 15 years ago. Mr. President, there are not many other honest, hardworking Americans who can say that their salaries have gone down by 36 percent over the last decade. Some farmers have complained that the concentration within the industry has restricted their choice of buyers for their products.

Many factors have contributed to the troubles farmers have faced recently—consolidation within the food processing industry may not be the sole cause of these troubles, though I recognize it could well be a cause. The recent rate of consolidation, however, is a concern to me, and for this reason I recently pledged a full and comprehensive review of this matter by the full Senate Judiciary Committee. We need to look at the entire spectrum of the food industry to explore the extent to which consolidation within the industry is adversely affecting family farmers. We also need to examine whether existing antitrust statutes are being adequately enforced and whether any changes to federal law are warranted.

While I sympathize with the amendment offered by Senator WELLSTONE, I am afraid that it does nothing to shed further light on the matter. Not only does the amendment fail to address the heart of the matter, it may even do more harm than good for our farmers. We cannot possibly understand all of the implications of placing an 18-month moratorium on agribusiness mergers. It is very likely, Mr. President, that smaller food processing plants will rely on mergers with larger processors if they are to survive. Placing a moratorium on mergers could actually cause smaller firms to go out of business. In such a case, this amendment would surely stop a merger, but putting a smaller firm out of business is a less desirable outcome than allowing mergers to go forward. Many of these smaller processors are actually owned by farmers.

We cannot afford to lose our family farms in this country, and I think everyone recognizes that. Let us deal with this issue pragmatically. Let us get to the bottom of this problem. I urge my colleagues to vote against this amendment. We should first allow the Judiciary Committee to fully examine these issues and prudently determine what effect, if any, consolidation in the industry has on the plight of the family farmer. The type of market interference proposed by this amendment is simply wrong and I urge my colleagues to reject it.

Mr. President, I would like to make some additional remarks regarding concentration in the food processing industry. I have been as concerned about concentration in the food processing industry as any Member of this body. My concern over the concentration in the food processing industry led me to break the logjam on the Livestock Concentration Report Act in the 104th Congress and get it through the Senate Judiciary Committee and the full Senate.

My concern over concentration in the processing industry led me to introduce the Interstate Distribution of State-Inspected Meat Act of 1997 in the 105th Congress. This bill would have helped to shore up and enhance competition in the meatpacking industry.

My concern over this issue led me to pass an amendment in the fiscal year 1999 Agriculture appropriations bill that required the USDA to produce a proposal with regard to the interstate distribution issue. I am also considering legislation, along with Senator DASCHLE, to codify the USDA's proposal, which goes even further toward shoring up competition in the meatpacking industry.

Finally, I have recently unveiled my plan for the Judiciary Committee to provide a full and comprehensive review of the concentration issue. So far, we have had some excellent studies on this issue. Here is just a small sampling of the many studies already completed with regard to consolidation in the food processing industry:

(1) A GAO Report entitled: ''Packers and Stockyards Administration: Oversight of Livestock Market Competitiveness Needs to Be Enhanced'' (October 1991).

(2) ''Concentration in Agriculture: A Report of the USDA Advisory Committee on Agricultural Concentration'' (June 1996).

(3) A USDA report entitled: ''Concentration in the Red Meat Packing Industry'' (February 1996).

(4) A GAO report entitled: ''Packers and Stockyards Program: USDA's Response to Studies on Concentration in the Livestock Industry'' (April 1997).

(5) A report of the USDA Officer of Inspector General entitled: ''Grain Inspection, Packers and Stockyards Administration: Evaluation of Agency Efforts to Monitor and Investigate Anticompetitive Practices in the Meatpacking Industry'' (February 1997).

I believe the next step is not another study. The next step is to examine whether existing antitrust statutes are being adequately enforced and whether

any changes to Federal law are warranted to help remedy the situation. I suggest that a moratorium on mergers has the potential for causing more harm than good. A moratorium is not an issue that has been studied, and frankly, the unintended consequences could be that some processors are forced to go out of business due to the ban on mergers. This would have exactly the opposite effect that we are hoping for. I might add, that farmers from my State who have been very concerned about the concentration issue have also expressed their opposition to the Wellstone amendment, for this reason.

Mr. KOHL. Mr. President, I rise today to support the amendment offered by my friend Senator WELLSTONE. Let me explain both why I support this amendment and why my support is somewhat qualified.

On the one hand, I agree that agricultural concentration is a problem which increasingly undermines the viability of family farms and negatively affects the well-being of our agricultural communities. On our Antitrust Subcommittee, we have watched with growing concern the wave of agricultural mergers and joint ventures in agriculture that have reduced the marketing options available to producers, and which may ultimately reduce—or may already have reduced—the prices they receive from the marketplace. While these merging corporations often contend that the mergers will result in better service for farmers and cost-savings for consumers, it's unclear whether that is true. And farmers face continued pressures from giant conglomerates against whom they have little bargaining power.

But, on the other hand, I am concerned that a blanket ban against all agricultural mergers would prevent those mergers that are pro-competitive as well as those that are undesirable. In addition, singling out a particular industry for merger moratoria, I fear, will lead to other calls for similar ''carve-outs.''

Perhaps a better way to address the problem of consolidation in the agricultural industry is do what the administration has already promised. The Antitrust Division of the Justice Department has given me a commitment that it will appoint a Special Counsel for agricultural antitrust issues—and it should do so expeditiously. This official will help ensure that agribusiness mergers no longer are a poor stepsister to mergers in the computer, telecom, finance, and media industries.

Mr. President, in moving a measure such as this one, we need to take care that we do not harm the very people we are trying to help. But until we see real signs that the administration is prepared to seriously scrutinize concentration in the agricultural industry, this approach is preferable to no action at all.

Mr. BINGAMAN. Mr. President, I will vote against the Wellstone-Dorgan agribusiness merger moratorium because I believe the solution to this problem is not a temporary moratorium. Instead, the Department of Justice should enforce the anti-trust laws that now exist to prevent the problems arising from industry concentration. That's why, last February, I signed a letter to the President, along with 22 of my colleagues, urging the administration to conduct a full-scale detailed examination of the impacts of market concentration on our nation's family farmers and ranchers. We requested that the study be completed within six months and the findings reported to Congress. We have yet to receive that study. I will continue to press the Department of Justice to exercise particular diligence in reviewing proposed mergers or acquisitions involving major agribusiness firms.

Our family farmers and ranchers need and deserve our full support. I have worked hard to provide emergency funding in times of natural disaster, and to address the economic disasters created by trade and world economic conditions. I am working to reform the federal crop insurance program to address the needs of specialty crop producers. And I will continue to advocate for full adherence to existing anti-trust laws, and the procedures for investigating market concentration in agriculture.

Mr. HUTCHINSON. Mr. President, I rise today in opposition to Senator WELLSTONE's amendment. I know that my friend and colleague from Minnesota is proposing this amendment with the welfare of America's family farmer in mind. I, too, think of America's family farmer, but I have concerns that placing a moratorium on agribusiness mergers and acquisitions now may do more harm in my State than good. This is an important issue and I commend Senator HATCH's willingness to hold hearings on this matter in the Antitrust Subcommittee. We need to have the time to carefully consider how agribusiness mergers and acquisitions affect America's producers.

I am very proud of the farmers in my State. Arkansas ranks in the top 10 rice, chicken, catfish, turkey, cotton, sorghum, eggs, and soybean producing States in America. Despite their productivity, there are fewer this season than last season. An ailing national agriculture economy has pushed many farmers to the breaking point. I visited 27 counties in Arkansas over the August recess and saw the strain on their faces and heard the frustration in their voices. Their deep concern for the future of farming comes from knowing that agriculture is the lifeblood of my State's economy.

Arkansas is dominated by small farms and cooperatives, but Arkansas is also home to national processors like Tyson Foods. I do not believe that we should trade the interests of one for another. Instead, we must develop a balanced policy that will help small farmers and not penalize those companies which are helping drive my State's agriculture recovery. In many communities, these cooperatives and agribusinesses are the foundation of the farm economy in that area. Right now, many of those communities are still hurting. That is why I am more concerned about the overall survivability of the cooperatives and agribusinesses in Arkansas than the possibility that some of them may someday decide to merge with a larger entity. In reality, if an agribusiness in Arkansas is struggling to stay alive, and Senator WELLSTONE's moratorium on agribusiness mergers and acquisitions is imposed, that greatly limits an ailing business' ability to sell to survive. In other words, if the owners of an agribusiness have only two choices to survive—either sell or declare bankruptcy—and the option to sell is denied, then their going out of business doesn't help anyone.

While America's farmers are slowly recovering from low commodity prices, high production costs and poor trade, I believe now is not the time to destabilize agribusinesses in Arkansas. On the other hand, I know that producers in many farm states have serious concerns about the impact larger agribusinesses, especially the meat processing industry, have on their ability to recover from poor prices. Let me be clear, I do not advocate inaction, but I am concerned that producers and processors in my state, both large and small, may be unintentionally harmed by the Wellstone amendment.

Many meat processing agribusinesses in Arkansas provide stability for producers and have good working relationships with them. Because most of their producers work under contract, both the agribusinesses and producers suffer when prices are low. Tyson Foods, known for their poultry processing, is involved in raising hogs. As the price for hogs began to fall, Tyson felt the financial strain of production without the ability to process. In the mind of Tyson's contract pork producers, the company's situation had reached a critical level when they received letters telling them that sustained low hog prices were forcing Tyson to only offer 30-day contracts. Producers were left wondering how they would pay off debt and survive if Tyson could not renew their contracts. Recently, Smithfield announced that it will be taking over Tyson's Pork Group, effectively stabilizing the future of Tyson's contract producers. Unlike Tyson who only raised hogs, Smithfield has the capacity to both raise and process their livestock.

Clearly, if Senator WELLSTONE's moratorium on mergers and acquisitions was in pace at the time of the Smithfield acquistion of Tyson's Pork Group, contract producers would still be living under a cloud of uncertainty in an ailing hog market. With that in mind, I encourage my colleagues to vote against the Wellstone amendment so that Senator HATCH may be afforded

the time to thoroughly address the impact agribusiness mergers and acquisitions are having on the American family farmer.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be charged equally to both sides.

Mr. WELLSTONE. Mr. President, I yield 2 minutes to my colleague.

The PRESIDING OFFICER. The Senator from North Dakota is recognized for 2 minutes.

Mr. DORGAN. Mr. President, we only have 20 additional minutes to debate this. There will be a vote this morning.

I have always had the greatest respect for my colleague from Oregon. I think he is a really excellent Senator and a good thinker. On this issue, the purpose of our being here is about competition. I don't think anyone can dispute that family farmers have been squeezed by a system in which highly concentrated industries are taking more of the profits, saying we want more of the profits and we want to give family farmers less profits. That is not a sign of good competition; it happens because these industries have the economic power to do it.

I taught economics briefly. Some would suggest you are not fit for other work when you have done that. But I have gone on nonetheless. Economists will argue this both ways. I understand that. But there is a commonsense aspect to this.

Harry Truman used to say that nobody should be President who first doesn't know about hogs. The Senator from Minnesota talked about hogs and concentration in the hog industry. Hogs are just one. Beef, grains—in every single area, industries are more and more concentrated, choking the economic life out of the little guy, out of the little producer. Why? Because they can. They want to increase their profits, increase their size, and choke the life out of family farmers. Our point is, that is not free, fair, and open competition. That is not a marketplace that is working.

Mr. SMITH of Oregon. Will the Senator yield?

Mr. DORGAN. I will yield on the Senator's time.

Mr. SMITH of Oregon. Of course.

For the record, no one should be President who doesn't know something about green peas either.

In all seriousness, I understand what the Senator is saying. I think what the Wellstone amendment, hopefully, is doing—if it does not pass today, I hope it has the Justice Department going to work on this issue. In my view, what we don't need is more layers of second-guessing the marketplace from the Department of Agriculture.

We already have a system of antitrust laws. They need to enforce them, and there are serious problems of too heavy a concentration. I just simply tell you that I have seen, in my own experience, when these companies get too big, they create companies coming up behind them. It happens time and time again—for the little guy to become a big guy. It happens also on the farm, as a small family farm. Now you have huge corporate farms.

It is a process of the marketplace working. Usually, when we intervene in these ways, we do it incorrectly, bluntly, ineffectively, and we end up hurting the people we are trying to help. I believe we have laws that ought to be employed and, if they are employed, the concerns of the Senators from the Great Plains will be addressed, and they should be addressed.

Mr. DORGAN. This little guy/big guy notion of economics reminds me of the old parable that the lion and lamb may lie down together but the lamb isn't going to get much sleep. That is also true in economics. It is certainly true in this economy. The little interests are disappearing. That is true of agriculture. Family farmers are having the life choked out of them by the concentration in industries which they have the muscle to say: We want more of our food dollar coming from that bread, and we want you to have less. That is what they are saying to family farmers.

Mr. WELLSTONE. Will the Senator yield?

Mr. SMITH of Oregon. Yes.

Mr. WELLSTONE. I ask unanimous consent that I have 5 minutes at the very end to summarize this because we may make some changes.

The PRESIDING OFFICER. We will watch the time.

Mr. WELLSTONE. May I have 5 minutes at the end? Otherwise, my time will burn off.

Mr. SMITH of Oregon. Mr. President, the leadership has suggested to me they want an up-or-down vote on this. If there are amendments that the Senator has, he would very much like those to be a part of the hearing that Senator HATCH already announced will be occurring in the next session of this Congress.

Mr. WELLSTONE. I would like that. I don't want to have all my time burned up. I would like to have 5 minutes at the end.

Mr. DORGAN. Mr. President, in my concluding 30 seconds, I will say that the Jeffersonian notion of how this system ought to work is broad-based economic ownership. That is what Thomas Jefferson envisioned—broad-based economic ownership in this country which not only guarantees economic freedom but political freedom as well.

The point is, the concentration that is occurring is unhealthy, especially in agriculture, because it is choking the life out of family farmers. We are talking simply about a timeout here.

When I talked about Harry Truman's description of hogs, incidentally, that would have lost its luster had he said that nobody should become President without first knowing about green peas. He was talking about hogs because he was talking about broad-based economic ownership on America's family farms. He had it just right. That is what we are trying to get back to with this amendment.

The PRESIDING OFFICER. The Senator from Minnesota has 4 minutes 59 seconds remaining on his time.

Who yields time?

If no one yields time, it will have to be subtracted from both sides of the debate.

Mr. WELLSTONE. Mr. President, the unanimous consent I am asking for is whether or not, if the other side is not going to use the time, I could reserve for the end when we run out of time the final 4 minutes 59 seconds to summarize this because I am waiting for Senator GRASSLEY. We have been involved in negotiations. I would like to summarize where we are.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SMITH of Oregon. Mr. President, I want to say, in a larger sense, if we can single out agribusiness in this way for sort of super-antitrust treatment, if you will, we can single out any industry. I have noticed, in my 3 years as a Senator, we have sort of a merry-go-round of unpopular businesses in this country and we pick them off one at a time. I am very concerned about this process of intervening in a marketplace that works because there are winners and losers in the marketplace. Agriculture is a very difficult industry. I don't know the profits of these big food processors. I, frankly, don't know most of these kinds of industries. Most of the food processors I think of may actually have revenues of $100 million. But that is sales; that doesn't mean profit. They may have losses of $110 million. I don't know. I don't see their books.

Mr. WELLSTONE. Will the Senator yield?

Mr. SMITH of Oregon. Yes, I am happy to yield.

Mr. WELLSTONE. First of all, let me be clear again. I want to tell the Senator that there are two very important, if you will, safety valves. One has to do with the very point he just made. If, in fact, a business says, look, we will be insolvent if we don't do this acquisition or merger, then they will get a waiver to do that. I want to make that clear, as to what this is and is not. That might get you support. I think there are provisions in here that are important.

Second, this is just a timeout; that is all this is. This comes from some pretty solid empirical evidence about the wave of mergers. And, again, three or four firms dominate well over 50 percent of the market and its effect on producers.

Finally, I do believe that, again, if USDA uses this criterion, it can also be a second safety valve that says, look, in this particular case, this acquisition or merger would be procompetitive given the situation. That would be another way.

So we are trying to deal with the most extreme of circumstances. This is

eminently reasonable. It is a cooling off; it is a message from the Senate that we care about what is going on out there. We want to have more free enterprise built into the system. This is pro-free enterprise, pro-competition. We don't have the competition now.

Mr. SMITH of Oregon. Will the Senator yield?

Mr. WELLSTONE. Yes, I will.

Mr. SMITH of Oregon. Mr. President, I appreciate the chance to talk so the American people can hear this. The problem we are talking about is that, for agriculture, we are not going to create just an antitrust division that ought to be going to work every day evaluating these things, but now we are going to create a whole new role for USDA to make judgments about the marketplace. I don't trust Government to make those judgments about the marketplace; I really don't. I think we mess it up more than we help it. So I really don't think that satisfies my concern.

Mr. WELLSTONE. If the Senator will yield again, let me be clear about this on two issues. First of all, if it weren't for the wave of mergers and this breathtaking consolidation of power—and then we look at the Sherman Act and the Clayton Act and wonder what is going on here—we would not even be talking about a timeout. That is the only reason we are doing this. I don't think anybody can deny the reality of what happened.

Second, the USDA would only be involved if a company said: Listen, we would like to get a waiver from this timeout period. It is only if a company makes the request or a company says: Look, we would like to get a waiver from this timeout period. We are big, but we need to be involved in this acquisition or merger and it will actually be procompetitive. We are just trying to give a company a place to go.

So, with all due respect, it is not the kind of Government involvement my colleague fears. There does come a point in time in the rich history of our country where public power is there. Where is Teddy Roosevelt when we need him today? That is all this is, a cooling-off period to give us incentive, I say to my colleague from Oregon, to write some laws and do something that will put the competition back in place, so our producers have a chance.

Mr. SMITH of Oregon. Mr. President, if the Senator will yield, I am all for the rules Teddy Roosevelt created. If they were enforced, we would not need to develop more Government.

I guess I would understand the Senator's amendment more if he didn't exempt agricultural cooperatives. I don't understand that. It is a different forum of how you do agribusiness. It is farmer-owned. But, frankly, it is unfair to other farmers who do not process for nonfarmer cooperatives. I just think if it is good for the goose, it is good for the gander. But it is not in this amendment. It is unfair, and it isn't right. Treat them all the same or, frankly, let's defeat this amendment. I sincerely hope the Senate will not interfere in the marketplace as proposed by this amendment. Allow the Judiciary Committee to go forward and hold its hearings, and let's ask the antitrust department and Justice Department to go to work and enforce the laws we already have.

Mr. LEAHY. Will the Senator yield for a unanimous consent request?

Mr. WELLSTONE. Yes.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be allowed to proceed for 3 minutes, not to come out of the time that has been established for this bill, realizing that would make the vote 3 minutes later—just to let people know where we are on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, just so that colleagues on both sides will know, last week, and again yesterday for that matter, we made more progress on this bill.

We have been able to clear 27 amendments to improve the Bankruptcy Reform Act. Those are amendments offered by both Republicans and Democrats.

Senator TORRICELLI, Senator HARRY REID, and I have been working in good faith with Senator GRASSLEY and Senator HATCH to clear amendments. We have been able to do that, and we will try to clear even more.

I am pleased, on a personal point, that the majority accepted my amendment regarding the mandate to file tax returns under the bill. That will save $24 million over the next 5 years. But there are a lot of amendments similar to this that have improved it.

Senator TORRICELLI and I are working together with the deputy Democratic leader, and we are preparing to enter a unanimous consent request to limit the remaining Democratic amendments to 27 amendments. Fifteen of these have already been offered to the bill and are the pending business. All 27 were filed by November 5. Most of these are going to have very short time agreements. Many will be accepted. From a total of 320 amendments that were filed by both Republicans and Democrats on November 5, the managers of the bill on both sides have boiled down the remaining Democratic and Republican amendments to about 35—from 320 to 35.

Many of them are going to be acceptable either with modifications or in the present form. The remaining ones are critical to the debate on this bill.

Remember that for the first time in our Nation's history this bill would restrict the rights of Americans to file for bankruptcy based on the debtor's income. If we are going to adopt a means-tested bankruptcy law, we should have a full and fair debate on that. The American people would ask for nothing more.

The credit card industry is going to get billions out of this and should have to bear some responsibilities for its lax lending practices. We have heard a lot of stories about 5-year-olds getting credit cards in the mail with a multi-thousand-dollar limit.

Then we have the Truth in Lending Act on here.

I would like to get as close to a fair and balanced bill as we passed last year.

But we have come to the floor to offer amendments. We had only 4 hours of debate on Monday, and a disrupted day yesterday with caucuses and other things. But we have moved very quickly on this. We have disposed of 35 amendments with only 8 rollcalls.

I urge Senators to move forward. The leaders are trying to move forward.

I thank my colleagues for allowing me to break in to bring people up to date.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I send a modification to my amendment to the desk and ask unanimous consent that the amendment be modified. I will explain the two provisions.

The PRESIDING OFFICER. It takes unanimous consent.

Is there objection?

Mr. SMITH of Oregon. Reserving the right to object, I certainly don't mind the Senator offering an explanation of the amendment. But I have been asked by the majority leader and Senator HATCH to object.

The PRESIDING OFFICER. Objection is heard.

Mr. WELLSTONE. Mr. President, I would appreciate it before we have this vote. My colleagues were with Senator LOTT when I was very involved in the unanimous consent agreement as to which amendments were going to come up and how we were going to deal with nonrelevant amendments.

Senator DASCHLE asked Senator LOTT. I was right out here on the floor. In fact, I had made the request that if, in fact, we weren't changing the meaning or the scope of our amendment, but we were going to make a correction, we would be able to do that. Senator LOTT said if this didn't change the meaning of the amendment, or the scope of it, then, of course, that would be all right.

This is not a different amendment. This is in violation, or I would never have agreed to this unanimous consent agreement. All we are doing is listening to colleagues who have said there should be $10 million to $100 million on both parties. We think that would make a big difference from the point of view of small businesses, and at least give businesses another place where they can go if they believe their merger or acquisition is not procompetitive.

Those are the two changes. I cannot believe that now I am being told I can't do this. This was a part of the unanimous consent agreement. I was on the floor. I will get the CONGRESSIONAL RECORD out of the exchange.

Mr. SMITH of Oregon. If the Senator will yield, I was not a part of that

agreement. I know what I have been told by the majority leader and by Senator HATCH. Whether the scope is narrowed or not, the principle is the same. If there is an invasion of the free enterprise system, it potentially penalizes all the farmers who rely upon the stock-owned companies in advantage of a few others.

I think that is the wrong way to do it. We have some laws. I think they need to be enforced. But this is too blunt of an instrument. If you want to help farmers, this is not the way to do it. If you want to help farmers, you go after the regulations that are strangling them. You open up the international markets. And, yes, you enforce antitrust laws. But you don't create a regulation that interferes in a very blunt fashion with the free enterprise system.

The PRESIDING OFFICER. Objection is heard.

The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, let me try this again. My colleague can object to the amendment. But that is a different issue. That is a different issue. I now come to the floor with a modification. When we came up with this original unanimous consent agreement, the majority leader made it crystal clear in an exchange with the minority leader—I was out here on the floor—if we wanted to have a technical correction in our bill and it was not changing the scope or meaning, that it would, of course, be all right. Now you are denying me my right to make that modification. Why are you afraid of a modification? I am just a little bit outraged by this. I was here. I was on the floor. I know what was discussed. I know what the majority leader said.

I also believe if my colleagues want to have an up-or-down vote, fine. But you ought to give me the right to make a modification to my amendment that I think would make this a stronger and a better amendment.

I want to send the amendment to the desk again. Did I send it? Do you already have it?

I appeal to the Senator to please not object to my unanimous consent request to modify my amendment with what I have sent to the desk.

The PRESIDING OFFICER. A modification is not in order without unanimous consent.

Objection has been heard.

Mr. WELLSTONE. I ask unanimous consent that I be allowed to modify my amendment, which is exactly what we agreed to in terms of how we deal with these amendments.

The PRESIDING OFFICER. Is there objection?

Mr. SMITH of Oregon. I object.

Mr. WELLSTONE. Mr. President, my colleagues are afraid to have a vote and an honest debate on what we are talking about, and this is a violation of the agreement that we made when we talked about how to proceed.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from Oregon.

Mr. SMITH of Oregon. Mr. President, I am in no way questioning what the Senator was saying. I wasn't a party to the agreement he was talking about. What I am objecting to is the principle, whether it is a little or a lot. What I am saying is we have the laws to fix these kinds of problems. The Justice Department ought to go to work, and we ought not to be intervening in the agricultural marketplace in this way.

If you want to help farmers, help them with their water rights, help them with their labor problems, help them with closed international markets, help them with subsidies, and help them with a whole range of things we do in great abundance around here. But, frankly, get off their air hose when it comes to regulation. They are being strangled by regulation. This is not the way to help farmers; therefore, I object on my own basis—not on the basis of Senator LOTT or any other leader.

The PRESIDING OFFICER. Under regular order, the amendment cannot be modified without unanimous consent.

Mr. DORGAN. Mr. President, might I ask the Senator for 1 minute for the purpose of making an inquiry?

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I understand the point made by the Senator from Oregon.

First of all, I was not here during the discussion on the floor. So I am not someone who can describe what happened during that discussion. But if the Senator from Minnesota is correct—and he may well be—that, in fact, the majority leader made representations, I think he would not want to abridge them at this point. I think it is a matter of finding the record; the majority leader has always acted in good faith to honor an agreement he made on the floor.

Before denying the opportunity to the Senator from Minnesota, we ought to get that record and find out to what the majority leader agreed. I am certain what he agreed to then he would agree to today. If he agreed to allow a modification, the Senator from Minnesota should be allowed to pursue that modification.

I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. SMITH of Oregon. I don't want to deny the Senator from Minnesota his chance to modify his amendment on the basis of an agreement he had with the leader. I don't want to not pursue an issue this important today.

The PRESIDING OFFICER. Will the Senator suspend?

The Senator from North Dakota made a point of order that a quorum is not present.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SMITH of Oregon. I ask unanimous consent that the order for the quorum call be rescinded.

Mr. WELLSTONE. I object.

The PRESIDING OFFICER. The objection is heard. The clerk will continue to call the roll.

The legislative clerk continued the call of the roll.

Mr. SMITH of Oregon. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. WELLSTONE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The legislative assistant continued the call of the roll.

Mr. WELLSTONE. 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. WELLSTONE. Mr. President, parliamentary inquiry: I want to find out from the Chair whether or not I can amend, provide direction to my amendment without requiring unanimous consent; whether I have a right to do that.

The PRESIDING OFFICER. Under the Senate rules, the Senator cannot do that.

Mr. WELLSTONE. Mr. President, I have how much time left?

The PRESIDING OFFICER. The Senator has 4 minutes 45 seconds.

Mr. WELLSTONE. Mr. President, I have said it all, along with Senator DORGAN, about the why of this amendment and how important it is for our producers, how important it is to take a timeout so we can have some competition, how important it is to farmers and rural communities. Given the ruling of the Chair, I want to be crystal clear as to what has now happened.

I wanted to come to the floor of the Senate—it was my understanding I would be able to do so, but I have been told I would not be able to do so—and improve upon this amendment in the spirit of compromise.

Some colleagues are concerned about this timeout and they said: Why don't we have companies with $100 million. And the other threshold for an acquisition merger would be $100 million as well. They would be more comfortable with that. I wanted to provide this direction to my amendment to improve upon it. I wanted to compromise.

I was also told by some colleagues they are a little worried that during this cooling off period, maybe some of the acquisitions and mergers would be procompetitive. I worked very hard to have some very specific language which would enable such a company to go to USDA and say: Listen, this would be procompetitive. And USDA, based upon clear criteria, would say: You are right.

I come to the floor of the Senate today as a Senator from the State of Minnesota to try to modify my amendment. It is very clear what the modification would be. Based upon discussions with other Senators, in the spirit of compromise, so we can at least move

this forward and provide a message to our producers that we care, so that some Senators who may now have to vote against this because of their concerns would be able to support it so we can actually adopt something that will make a difference, I am told I do not have the right to modify my amendment.

Also—this is my final point because I cannot help but be a little bit angry about this—the majority leader came to me last week when Senators wanted to leave. We were scheduled to have a debate, and we were scheduled to have a vote. The idea was, to enable people to leave, we would hold this over, and I said yes. It is not as if I have waited to the last minute. We could have had negotiations then. We have just come back to this.

I must say to my colleague from Oregon and others, I am skeptical about this. It is pretty rare that a Senator cannot come to the floor and modify his amendment. Whatever the procedural ruling is, it seems to me it is crystal clear what is going on. I wanted to modify it. I wanted to compromise. I wanted to make an amendment that would generate more support, maybe even adopt it, and I have been denied the opportunity to do so. That is very unfortunate.

It is about time my colleagues gave some serious thought to being on the side of some of the interests in our country that do not have all the money and are not so well connected and such big investors and do not have such power. When my colleagues start with that, think about the producers and the people who live in our rural communities because right now we are seeing merger mania. We are seeing a lack of competition. We need to go back, I guess, to Teddy Roosevelt politics. It is a shame I have been denied the right to provide direction to my amendment or a modification to my amendment which would have been a good compromise.

How much time do I have?

The PRESIDING OFFICER. The Senator has 25 seconds remaining.

Mr. WELLSTONE. Mr. President, other than I do not have strong feelings about any of it, I will not take the last 25 seconds. I feel too strongly to say anything more in the last 25 seconds. It is rare that a Senator cannot modify his amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2752. The yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from Ohio (Mr. VOINOVICH) are necessarily absent.

The result was announced—yeas 27, nays 71, as follows:

[Rollcall Vote No. 366 Leg.]

YEAS—27

Akaka	Feingold	Kohl
Baucus	Grassley	Lautenberg
Boxer	Harkin	Leahy
Bryan	Hollings	Levin
Byrd	Inouye	Moynihan
Conrad	Johnson	Reid
Daschle	Kennedy	Rockefeller
Dodd	Kerrey	Sarbanes
Dorgan	Kerry	Wellstone

NAYS—71

Abraham	Enzi	Mikulski
Allard	Feinstein	Murkowski
Ashcroft	Fitzgerald	Murray
Bayh	Frist	Nickles
Bennett	Gorton	Reed
Biden	Graham	Robb
Bingaman	Gramm	Roberts
Bond	Grams	Roth
Breaux	Gregg	Santorum
Brownback	Hagel	Schumer
Bunning	Hatch	Sessions
Burns	Helms	Shelby
Campbell	Hutchinson	Smith (NH)
Chafee, L.	Hutchison	Smith (OR)
Cleland	Inhofe	Snowe
Cochran	Jeffords	Specter
Collins	Kyl	Stevens
Coverdell	Landrieu	Thomas
Craig	Lieberman	Thompson
Crapo	Lincoln	Thurmond
DeWine	Lott	Torricelli
Domenici	Lugar	Warner
Durbin	Mack	Wyden
Edwards	McConnell	

NOT VOTING—2

McCain	Voinovich

The amendment (No. 2752) was rejected.

AMENDMENT NO. 2663

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes of debate on amendment No. 2663.

Mr. MOYNIHAN. Mr. President, this amendment retains existing bankruptcy law for low-income persons. A feature of the law as it now exists and which is perfectly sensible is the presumption that people who incur debt shortly before declaring bankruptcy have acted fraudulently. Clearly, this can be the case, is often the case, and is proven so.

However, the bill presently before the Senate extends the time (from 60 days to 90 days for consumer debts, for instance) in which this presumption of fraudulent activity takes place, and it changes the dollar amounts. We propose to keep the law as it is for low-income persons—people below the median income level, who already live hand-to-mouth, who often find themselves in a bind, with no intent to defraud, and keep borrowing until they are in bankruptcy situations. They won't have lawyers and can't defend against presumptions.

We simply keep the existing law. Deal with true fraud and important bankruptcies as the bill proposes to do but leave the small and hapless folk to their small and hapless fortunes.

The administration supports this measure, as does my friend, the senior Senator from Vermont, Mr. LEAHY, and his associate in these matters, Ms. LANDRIEU of Louisiana.

Mr. HATCH. Mr. President, in its current form, the bankruptcy reform bill attempts to resolve a major area of bankruptcy abuse, known as ''load up.'' In plain terms, load up occurs when a debtor goes on a spending spree shortly before filing for bankruptcy.

Under S. 625, limits are placed on a debtor's ability to buy luxury goods and take out large cash advances on the eve of bankruptcy. The bill accomplishes this by creating a rebuttable presumption that certain debts are not dischargeable. Specifically, the bill provides that debts of more than $250 per credit card for luxury goods, that are incurred within 3 months of bankruptcy, and cash advances of more than $750, incurred within 70 days of bankruptcy, are presumed to be fraudulent and are non-dischargeable.

These provisions, while an improvement over current law, are by no means a solution to the load up problem. Debtors still essentially are free to take out a cash advance of $750 and buy luxury goods valued at $250 on each of their credit cards before even the presumption of nondischargeability kicks in. It also is important to note that under the bill, luxury goods specifically exclude ''goods or services reasonably necessary for the support or maintenance of the debtor or a dependent of the debtor.''

Many have complained that these provisions do not go far enough to close the load up loophole. The amendment by the Senator from New York, in contrast, undermines the bill's modest anti-load up provisions by applying them only to those with income above the national median. Simply stated, the amendment would create an unjustified double standard, with those who fall under the national median income being permitted to load up on luxury goods and cash advances before filing for bankruptcy, as permitted by current law.

If we seriously intend to reform our bankruptcy laws and eliminate fraud in the system, we cannot let this major loophole continue without any reasonable limits.

Mr. GRASSLEY. Mr. President, I oppose this amendment because it sets up a double standard which lets below median-income bankrupts load up on debt on the eve of bankruptcy and then get those debts wiped away without judicial scrutiny. I know the Senator from New York is well-intentioned, but this amendment is a very bad idea.

Last night, the Senator from New York, in proposing his amendment, correctly noted that there is no evidence whatever that below median-income debtors could ever pay a significant amount of their debts. We have taken care of the problem the Senator from New York has raised by totally exempting below median-income debtors from the means test. I think that is fair and reasonable. It is a fact of life. It means the poor won't be forced into repayment plans they could never complete.

However, this amendment raises an entirely different question. This amendment isn't about whether the poor should be given a pass in terms of being forced to repay their debts. This amendment says people below the median income can purchase over $1,000 in luxury goods, such as Gucci loafers, and get over $1,000 in cash advances just minutes before declaring bankruptcy and they won't have to justify their debts to a bankruptcy judge.

This is not good bankruptcy policy. Anybody who loads up on debt on the eve of bankruptcy should have to justify their debts. When it comes to suspicious and perhaps fraudulent behavior, we should treat everyone the same, below median income or above median income. Anybody who loads up on debt right before filing for bankruptcy should have to explain themselves; otherwise, we open the door to an obvious abuse.

Last week, we defeated the Dodd amendment which contained very similar provisions. I ask my colleagues to defeat this amendment.

Mr. MOYNIHAN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. MOYNIHAN. Is it in order for me to offer a second-degree amendment that would preclude any purchase of Gucci loafers?

The PRESIDING OFFICER. It would be in order.

Mr. MOYNIHAN. I so move.

The PRESIDING OFFICER. Would the Senator send the amendment to the desk?

Mr. MOYNIHAN. I made my point.

I withdraw my request.

Mr. GRASSLEY. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment No. 2663. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) and the Senator from Ohio (Mr. VOINOVICH) are necessarily absent.

The result was announced—yeas 54, nays 43, as follows:

[Rollcall Vote No. 367 Leg.]

YEAS—54

Abraham	Coverdell	Hagel
Allard	Craig	Hatch
Ashcroft	Crapo	Helms
Bennett	DeWine	Hutchinson
Biden	Domenici	Hutchison
Bond	Enzi	Inhofe
Brownback	Frist	Jeffords
Bunning	Gorton	Johnson
Burns	Gramm	Kyl
Campbell	Grams	Lott
Cochran	Grassley	Lugar
Collins	Gregg	Mack
McConnell	Santorum	Stevens
Murkowski	Sessions	Thomas
Nickles	Shelby	Thompson
Robb	Smith (NH)	Thurmond
Roberts	Smith (OR)	Torricelli
Roth	Specter	Warner

NAYS—43

Akaka	Edwards	Lieberman
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Breaux	Hollings	Reed
Bryan	Inouye	Reid
Byrd	Kennedy	Rockefeller
Chafee, L.	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Conrad	Kohl	Snowe
Daschle	Landrieu	Wellstone
Dodd	Lautenberg	Wyden
Dorgan	Leahy	
Durbin	Levin	

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—2

McCain Voinovich

The motion was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURNS). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHANGE OF VOTE

Mr. L. CHAFEE. Mr. President, on rollcall No. 367, I voted ''aye.'' It was my intention to vote ''no.'' Therefore, I ask unanimous consent that I be permitted to change my vote. It would in no way change the outcome of the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

AMENDMENT NOS. 1695, AS MODIFIED; 2520; 2746, AS MODIFIED; AND 2522, AS MODIFIED, EN BLOC

Mr. GRASSLEY. Mr. President, I ask unanimous consent on the consideration of these amendments: 1695, as modified; 2520; 2746, as modified; 2522, as modified. I send the modifications to the desk and ask for their immediate consideration, that they be adopted, and the motions to reconsider be laid upon the table en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, is 2520 the McConnell amendment?

Mr. GRASSLEY. Yes.

Mr. REID. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 1695, as modified; 2520; 2746, as modified; and 2522, as modified) were agreed to as follows:

AMENDMENT NO. 1695, AS MODIFIED

(Purpose: To increase bankruptcy filing fees, increase funds for the United States Trustee System Fund, and for other purposes)

On page 124, between lines 14 and 15, insert the following:

SEC. 322. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7 OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended by striking paragraph (1) and inserting the following:

''(1) For a case commenced—

''(A) under chapter 7 of title 11, $160; or

''(B) under chapter 13 of title 11, $150.''.

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

''(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title in cases commenced under chapter 7 of title 11; and

''(B) 70.00 percent of the fees collected under section 1930(a)(1)(B) of this title in cases commenced under chapter 13 of title 11;'';

(2) in paragraph (2) by striking ''one-half'' and inserting ''three-fourths''; and

(3) in paragraph (4) by striking ''one-half'' and inserting ''100 percent''.

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking ''pursuant to 28 U.S.C. section 1930(b) and 30.76 per centum of the fees hereafter collected under 28 U.S.C. section 1930(a)(1) and 25 percent of the fees hereafter collected under 28 U.S.C. section 1930(a)(3) shall be deposited as offsetting receipts to the fund established under 28 U.S.C. section 1931'' and inserting ''under section 1930(b) of title 28, United States Code, and 31.25 percent of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title''.

AMENDMENT NO. 2520

(Purpose: To amend section 326 of title 11, United States Code, to provide for compensation of trustees in certain cases under chapter 7 of that title)

At the appropriate place in title III, insert the following:

SEC. 3___. COMPENSATION OF TRUSTEES IN CERTAIN CASES UNDER CHAPTER 7 OF TITLE 11, UNITED STATES CODE.

Section 326 of title 11, United States Code, is amended by adding at the end the following:

''(e) In a case that has been converted under section 706, or after a case has been converted or dismissed under section 707 or the debtor has been denied a discharge under section 727—

''(1) the court may allow reasonable compensation under section 330 for the trustee's services rendered, payable after the trustee renders services; and

''(2) any allowance made by a court under paragraph (1) shall not be subject to the limitations under subsection (a).''.

AMENDMENT NO. 2746, AS MODIFIED

(Purpose: To change the definition of family farmer)

At the appropriate place in the bill, insert the following:

SEC. . DEFINITION OF FAMILY FARMER.

Section 101(18) of title 11, United States Code, is amended—

(1) in subparagraph (A) by—

(A) striking '$1,500,000'' and inserting ''3,000,000''; and

(B) striking ''80'' and inserting ''50''; and

(2) in subparagraph (B)(ii) by

striking ''$1,500,000'' and inserting ''$3,000,000''.

AMENDMENT NO. 2522, AS MODIFIED

(Purpose: To provide for the expenses of long term care)

On page 7, line 15, strike ''(ii)'' and insert ''(ii)(I)''

On page 7, between lines 21 and 22, insert the following:

''(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonably and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, and siblings of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case) who is not a dependent and who is unable to pay for such reasonable and necessary expenses.

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. INHOFE. Mr. President, I ask unanimous consent that Glen Powell be given floor privileges for the duration of the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be recognized as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS APPOINTMENTS

Mr. INHOFE. Mr. President, I wish to have a brief word about the issue of recess appointments.

For quite some number of years, Presidents—Democrats and Republicans—have, in my opinion, violated the Constitution by making recess appointments. The Constitution is very explicit when it says that recess appointments can only be made in the event the vacancy occurs during the recess. There is a reason for this, historically.

Back in the days when we were on horses and we had legislative sessions that might have lasted 1, 2, or 3 months, we found ourselves in recess more than we were in session. Therefore, on occasion it would be necessary for the Secretary of State, who may have died in office—or when vacancies had occurred while we were in recess—to have to reappoint somebody. So we did. It made sense. But since that time—over the last several years—that privilege has been abused. As I say, this is not just an abuse that takes place by Republican or Democrat Presidents; it is both of them equally.

Consequently, the Constitution, which says that the Senate has the prerogative of advice and consent, has been violated. It was put there for checks and balances. It was put there for a very good reason. That reason is just as legitimate today as it was when our Founding Fathers put it in there; that is, the Senate should advise and consent to these appointments. It means we should actually be in on the discussion as well as consenting to the decision the President has made by virtue of his nomination.

In 1985, President Reagan was making a number of recess appointments that, in my opinion, and in the opinion of most of the Democrats and Republicans, was not in keeping with the Constitution. And certainly the majority leader at that time—who was Senator BOB BYRD from West Virginia, the very distinguished Senator—made a request of the President not to make recess appointments. He extracted from him a commitment in writing that he would not make recess appointments and, if it should become necessary because of extraordinary circumstances to make recess appointments, that he would have to give the list to the majority leader—who was, of course, BOB BYRD—in sufficient time in advance that they could prepare for it either by agreeing in advance to the confirmation of that appointment or by not going into recess and staying in pro forma so the recess appointments could not take place.

In order to add some leverage to this, the majority leader, Senator BYRD, said he would hold up all Presidential appointments until such time as President Reagan would give him a letter agreeing to those conditions. The President did give him a letter. President Reagan gave him a letter.

I will quote for you from within this letter. This was on October 18, 1985. He said:

> . . . prior to any recess breaks, the White House would inform the Majority Leader and [the Minority Leader] of any recess appointment which might be contemplated during such recess. They would do so in advance sufficiently to allow the leadership on both sides to perhaps take action to fill whatever vacancies that might be imperative during such a break.

This is exactly what we talked about. This is the reason President Reagan agreed to this. He gave a letter to Senator BYRD. Senator BYRD was satisfied.

Along came a recess last May or June, and the President did in fact appoint someone he had nominated long before the recess occurred—in fact, not just months but even more than a year before that—and who had not complied with the necessary information in order to come up for confirmation. In that case, President Clinton did in fact violate the intent of the appointment process in the advice and consent provision found in the Constitution.

I wrote a letter to President Bill Clinton. My letter said exactly the same thing the letter said from BOB BYRD to President Reagan in 1985. It was worded the same way President Reagan's letter was worded. It said: Unless you will give us a letter, I am going to personally put a hold on all recess appointments.

The President started appointing people. And I put a hold on all of them—it didn't make any difference; I put a hold on all nonmilitary appointments—until finally, I remember one time somebody said: Well, we have a really serious problem because we can't get confirmation on the President's nominee for Secretary of the Treasury. This could have a dramatic adverse effect on the economy. The value of the dollar could go down. All these things came into the picture. What are you going to do about that? I said: I am not going to do anything, but you had better tell the President about that because it is serious. Finally, he agreed to it.

Mr. President, I ask unanimous consent that all of these documents be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. INHOFE. The letter finally came on June 15, 1999. I will read one sentence out of that letter.

> I share your opinion that the understanding reached in 1985 between President Reagan and Senator BYRD cited in your letter remains a fair and constructive framework which my Administration will follow.

Once again, what is he following? He is saying, prior to any recess, the White House will inform the majority leader and the minority leader of any recess appointments which might be contemplated during such recess? Would they do so in advance sufficiently to allow leadership on both sides to perhaps take action to fill whatever vacancies might be imperative during such break? He agreed to it.

I have not seen such a document, but I think in anticipation of the recess we are going in, it is my understanding that the President merely sent a list of some 150 nominees he has. Again, I didn't see it. It was never officially received by the majority leader. It was sent back to the White House.

If he thinks this is a loophole in the commitment he made, it certainly is not a loophole.

Anticipating that this President—who quite often does things he doesn't say he is going to do and who quite often says things that aren't true—is going to in fact have recess appointments, we wrote a letter. It is not just on my letterhead signed by me, but also I believe there are 16 other Senators saying that if you make recess appointments during the upcoming recess, which violates the spirit of your agreement, we will respond by placing holds on all judicial nominees.

> The result would be a complete breakdown in cooperation between our two branches of government on this issue which could prevent the confirmation of any such nominees next year.

I want to make sure there is no misunderstanding and that we don't go into a recess with the President not understanding that we are very serious about that. It is not just me putting a hold on all judicial nominees for the remaining year of his term of service, but 16 other Senators have agreed to do that.

It would be very easy for the President to just go ahead and comply with that agreement he has in his letter of June 15, 1999, rather than feeling compelled to make judicial appointments during this recess.

I want to serve notice to make it very clear.

I received a letter from the President. He did not honor me with a personal letter. It came from John Podesta, Chief of Staff to the President. Without reading the whole letter, because it is rather lengthy, it says that they might not comply with this.

I want to make sure it is abundantly clear without any doubt in anyone's mind in the White House—I will refer back to this document I am talking about right now—that in the event the President makes recess appointments, we will put holds on all judicial nominations for the remainder of his term. It is very fair for me to stand here and eliminate any doubt in the President's mind of what we will do.

EXHIBIT I

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, June 10, 1999.

Hon. WILLIAM JEFFERSON CLINTON,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I appreciate our conversation this morning, and our mutual desire to come to an understanding about recess appointments. We have often worked together to help promote the smooth operation of the government, and I believe that we can once again come to an agreement.

As you know, the recent recess appointment of the U.S. Ambassador to Luxembourg has caused great concern to many members of the Senate. I believe that it would be constructive for us to reach an understanding in principle on how we will now proceed to ensure that we avoid similar sparring between the Executive Branch and the Senate in the future.

I agree that we will use the understanding reached between President Reagan and Senator Byrd in 1985, cited by your Chief of Staff today. That understanding, described in the CONGRESSIONAL RECORD of October 18, 1985, states ''. . . prior to any recess breaks, the White House would inform the Majority Leader and [the Minority Leader] of any recess appointment which might be contemplated during such recess. They would do so in advance sufficiently to allow the leadership on both sides to perhaps take action to fill whatever vacancies that might be imperative during such a break.''

I believe that this is both a reasonable and a constructive framework. Following this precedent will help us to proceed in a cooperative and expeditious manner on future nominees.

Mr. President, I appreciate your stated desire to work with me on this issue, and I look forward to hearing from you soon.

Sincerely,

TRENT LOTT.

THE WHITE HOUSE,
Washington, June 15, 1999.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: I was pleased to learn from your letter of June 10 that you agree with my Chief of staff on the matter of recess appointments. As Mr. Podesta indicated in his letter to you, my Administration has made it a practice to notify Senate leaders in advance of our intentions in this regard, and this precedent will continue to be observed.

I share your opinion that the understanding reached in 1985 between President Reagan and Senator Byrd cited in your letter remains a fair and constructive framework, which my Administration will follow. I also appreciate your view that our nominees merit expeditious consideration through bipartisan cooperation among Senators; I sincerely hope that this spirit will prevail in the days to come.

Sincerely,

BILL CLINTON.

U.S. SENATE,
Washington, DC, November 10, 1999.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We write to urge your compliance with the spirit of our recent agreement regarding recess appointments and to inform you that there will be serious consequences if you act otherwise.

If you do make recess appointments during the upcoming recess which violate the spirit of our agreement, then we will respond by placing holds on all judicial nominees. The result would be a complete breakdown in cooperation between our two branches of government on this issue which could prevent the confirmation of any such nominees next year.

We do not want this to happen. We urge you to cooperate in good faith with the Majority Leader concerning all contemplated recess appointments.

Sincerely,

Jesse Helms, Wayne Allard, Michael Crapo, Michael B. Enzi, Bob Smith, George Voinovich, Pete B. Domenici, James M. Inhofe, Phil Gramm, Mitch McConnell, Craig Thomas, Rod Grams, Tim Hutchinson, Conrad Burns, Chuck Grassley, Richard Shelby.

THE WHITE HOUSE,
Washington, November 12, 1999.

Senator JAMES INHOFE,
Senate Office Building,
Washington, DC.

DEAR SENATOR INHOFE: Thank you for your recent letter of November 10, 1999 on the need for cooperation between the Legislative and Executive branches and the President's right to recess appoint as defined by the Constitution.

We appreciate and thank the Senate, especially the Majority and Minority Leaders, for the 84 confirmations from Wednesday November 10, which includes eight republican nominees recommended by the Majority Leader. These confirmations reduce the number of nominees awaiting confirmation to 153 for this year. While nominees wait an average of six months to be confirmed, we thank you for confirming 62% of nominees this year.

We look forward to working with you on the 153 remaining nominees and new nominations this session and next session. They are important to the public, because they include nominations critical to the safety of our citizens and the integrity of our criminal justice system (US Marshals, US Attorneys and judges).

Compared with previous administrations, the President has used his authority to make recess appointments infrequently. President Reagan made 239 recess appointments. During President Bush's four-year term, 78 persons were recess appointed. We have made only 59 in 7 years, fewer than President Bush in four years. Several of our recess appointees have been republican nominees, done with the cooperation of the Senate leadership.

Because of the importance of filling these positions and pursuant to an agreement with the Majority Leader, we continue to notify the Majority and Minority Leaders of any effort the President may make a appoint temporarily a person into a vacancy, while awaiting confirmation by the Senate.

We will continue to meet with the Majority Leader's Office to accomplish our goal of confirming and appointing these nominees. We want to cultivate a cooperative relationship with you, and ask for your continued help in expeditiously confirming nominees so important to the US public.

Sincerely,

JOHN PODESTA,
Chief of Staff to the President.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Acting in the capacity of the Senator from Montana, I ask unanimous consent the order for the quorum call be rescinded.

Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:27 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GREGG].

The PRESIDING OFFICER. The Chair, in my capacity as a Senator from the State of New Hampshire, suggests the absence of a quorum. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BANKRUPTCY REFORM ACT OF 1999—Continued

Mr. LEAHY. Mr. President, I should note just on the bankruptcy bill, we are making more progress. This morning we were able to clear four more amendments. I understand there is a total of 31 amendments that been accepted to improve the Bankruptcy Reform Act. These are amendments that have been offered on both sides of the aisle.

I commend the distinguished deputy Democratic leader, the Senator from Nevada, Mr. REID, for his help. He has

been, as I described him in the caucus, indefatigable in his efforts to move this through. He and I and the Senator from New Jersey, Mr. TORRICELLI, and the Senator from Iowa, Mr. GRASSLEY, and the Senator from Utah, Mr. HATCH, have all worked to clear amendments or to set rollcalls on those we cannot clear.

I have urged Members to have short time agreements, and they have agreed to that. I think we have gone from some 300 or more potential amendments down to only a dozen or so, if that, that are remaining.

When you are dealing with a piece of legislation as complex as this, as important as this, when we are only 2 to 3 weeks before the end of this session—when we are only 2 to 3 weeks before the end of this session—I was hoping somebody would jump up and disagree on that ''2 to 3 weeks'' bit—or possibly a few days before the end of this session, it shows how well we have done.

But as I said earlier, before he came on the floor, I commend the Senator from Nevada, who has worked so hard to bring down those numbers on the amendments.

Frankly, I would like to see us wrap this up. I would like to go to Vermont.

Mr. REID. Will the Senator yield?

Mr. LEAHY. Yes, of course.

Mr. REID. I just talked to someone coming out of the conference. They said: What about this bankruptcy bill? I said: It is up to the majority whether or not we have a bankruptcy bill this year. We have worked very hard these past few days on these amendments. We need time on the floor to begin to offer some of these amendments.

As the Senator knows, we have maybe 8 or 9 amendments total out of 320, and we could have a bill. And the contentious amendments—on one that is causing us not to move forward, the Senator from New York, Mr. SCHUMER, has agreed to a half hour. That is all he wants. I just cannot imagine, if this bill is as important as I think it is and, as I have heard, the majority believes it is, why we cannot get a bill.

Does the Senator from Vermont understand why we are not moving forward?

Mr. LEAHY. I am at a loss to understand why we cannot.

I say to my friend from Nevada, yesterday morning—and I normally speak at about an octave higher than this; I am coming out of a bout of bronchitis—I came back to be here at 10 o'clock because we were going to be on the bill. Instead, we had morning business, I believe, until about 4 o'clock in the afternoon. That is 6 hours. That is what it would have taken to finish the bill, especially after the work of the Senator from Nevada, and others, in clearing out so many of the Republican and Democratic amendments to get them accepted or voted on.

I understand we are waiting for the other body to get the appropriations bill over here. I would think between now and normal suppertime today we could finish this bill, if people want to. We are willing to move on our side. We are willing to have our amendments come up.

I see the distinguished Senator from California on the floor. She has waited some time. She has been here several days waiting with an amendment. She has indicated she is willing to go ahead with a relatively short period of time. The Senator from New York, Mr. SCHUMER, has said the same. We are ready to go, and I wish we would.

As I stated earlier, I would have liked very much to get this done. I would actually like very much to finish all the items we have. I wish we could have finished a couple weeks ago. I want to go to Vermont. I want to be with my family. It was snowing there yesterday, as I am sure it was in parts of the State of the distinguished Presiding Officer. I see the distinguished Senator from Maine on the floor. I expect it did in her State.

Mr. REID. It was 81 degrees in Las Vegas yesterday.

Mr. LEAHY. Eighty-one degrees in Las Vegas. How about snow in the mountains?

Mr. REID. Oh, there was snow in the mountains.

Mr. LEAHY. The Senator from Nevada has the good fortune as I do: We both represent two magnificent and beautiful States. He has the ability, however, in his State to go far greater ranges in climate, in temperature, over a distance of 100 miles or so than just about anywhere else in the country. We sometimes do those ranges in temperature and climate in one afternoon in Vermont, but we are not always happy about it.

I would like to see us get moving and get out of here. I see the distinguished Senator from California, who has asked me to yield to her. I am prepared to do that, but I also note that we will not start on any matter until the distinguished floor leader on the other side is on the floor. So I am at a bit of a quandary. I wanted to yield to the distinguished Senator from California with her amendment, but the distinguished floor leader on the Republican side is not here.

So I ask that the Senator from California withhold a bit. I see the Senator from—I may be a traffic cop here. I see my good friend and neighbor from New England, the Senator from Maine.

I ask, could she indicate to me just about how much time she may need?

Ms. COLLINS. It was my understanding that there was an agreement that at 2:15—and we are a little late in getting here—Senator SCHUMER and I were going to be able to introduce a bill as in morning business. We would need approximately 15 minutes, I would guess.

Mr. LEAHY. Then I ask, Mr. President, unanimous consent that after the distinguished Senator from Maine and the distinguished Senator from New York have been heard, it would then be in order to go to the distinguished Senator from California, Mrs. FEINSTEIN, so she could go forward with her amendment.

Ms. COLLINS. Reserving the right to object, I believe that—Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mr. LEAHY. 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. LEAHY. Mr. President, I ask unanimous consent the Senator from Maine and the Senator from New York be recognized, and then the Senator from Wisconsin, Mr. KOHL, and the Senator from North Carolina, Mr. EDWARDS, be recognized for 5 minutes each after the Senator from Maine and the Senator from New York, and then the floor go to the Senator from California—now that I see the Senator from Iowa on the floor—so she could then go back to the bankruptcy bill.

Mr. REID. Reserving the right to object, it would be 25 minutes: 15 minutes and 5 for each of the two Senators as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine.

(The remarks of Ms. COLLINS and Mr. SCHUMER pertaining to the introduction of the legislation are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

MAKING FURTHER CONTINUING APPROPRIATIONS

Ms. COLLINS. Mr. President, it is my understanding that, under the previous order, the Senator from North Carolina will speak for 5 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin has 5 minutes, and the Senator from North Carolina has 5 minutes.

Ms. COLLINS. Will the Senator withhold for a unanimous consent request?

Mr. EDWARDS. Yes.

Ms. COLLINS. Mr. President, I ask unanimous consent the Senate proceed to the consideration of H.J. Res. 80, the continuing resolution, and that Senators KOHL and EDWARDS be recognized for up to 5 minutes each, and at the conclusion of their remarks, the resolution be read the third time, passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. EDWARDS. Mr. President, I ask unanimous consent that, in addition to the 5 minutes, I be granted an additional 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina is recognized for 8 minutes.

Mr. EDWARDS. Mr. President, I have spoken before on the floor about the devastation created by Hurricane Floyd in my State of North Carolina. Let me update and speak briefly on that subject, particularly since we are in the process of a continuing resolution right now.

Everybody knows, because they have seen the pictures on television, what happened to my families in North Carolina as a result of Hurricane Floyd. We have two huge issues that have to be addressed before this Congress adjourns. One is housing. We have people in eastern North Carolina who don't have homes and have no prospect of having homes any time in the foreseeable future. We have to address this housing situation in North Carolina before we adjourn.

Second is our farmers. Our farmers were already in desperate straits long before Hurricane Floyd came through, and they have been totally devastated as a result of Hurricane Floyd. We have to address the needs of our farmers in eastern North Carolina before we leave Washington and before the Congress adjourns.

Let me say, first, that we have, in the last 24 hours, made progress on both fronts. First, on the issue of housing, we have, at least in principle, reached agreement that FEMA will have an additional $215 million of authority—money already appropriated—for housing buyouts. Based on the information we presently have, that should get us well into next year in the process of participating in the housing buyouts and helping all of our folks who desperately need help. That is good progress, a move in the right direction. There is more work that needs to be done. But at least in terms of getting us through the winter, I think we have probably done what we need to do in terms of housing.

On the issue of our farmers and agriculture, there is at least in principle an agreement for approximately $554 million of additional agricultural relief.

My concern has been and continues to be whether that money, No. 1, will go to North Carolina and North Carolina's farmers; and, No. 2, whether it addresses the very specific needs that our farmers have.

We are now in the process of working with everyone involved in these budget negotiations to ensure that both of those problems are addressed:

No. 1, to make sure that a substantial chunk of that money goes to North Carolina, and that additional money, to the extent it is needed for very specific purposes, can be appropriated and allocated to North Carolina's farmers to deal with the devastation created by Hurricane Floyd;

No. 2, to make sure at least a portion of the money that has already been appropriated goes to address the very specific needs our farmers have.

It is absolutely critical that before the Senate adjourns and before this Congress adjourns and leaves Washington these two problems be addressed.

I said it before; I will say it again. Our government serves no purpose if we are not available to meet the needs of our citizens who have been devastated by disasters—in this case, Hurricane Floyd. These are people who have worked their entire lives—in the case of our farmers, they have farmed the land for generations. They have paid their taxes. They have been good citizens. They have always lived up to their end of the bargain.

What they say to us now is: What is their government— because this is their government—going to do to deal with their needs in this time of greatest need in the wake of Hurricane Floyd and disasters created by Hurricane Floyd?

We have a responsibility to these people. We need to make sure their needs at least have been addressed through the winter. When we come back in the spring—we will be back in the spring, I assure my colleagues—we will be talking to our colleagues again about what additional needs we have because we will have additional long-term needs. This problem is not going to be solved in a month. It is not going to be solved in 3 months. This will take a period of years. When Congress comes back in the spring, there will be many additional needs that will have to be addressed.

But at a bare minimum, we need to ensure this Congress does not adjourn and people do not go home until we have made sure we have at least addressed the housing needs which will get us through the winter—I think we have made real progress in that direction—and, second, that we have gotten our farmers back up on their feet so they can be back in business in the spring in order for them to continue their farming operation. Those two problems have to be addressed before we leave.

Let me make clear what I have made clear before, which is my people are in trouble. They are hurting. They need help. Senator HELMS and I have worked together very diligently to try to get them the help they need in this time of crisis.

I want to make it clear once again that I intend to use whatever tool is available to me to ensure that my people get the help they need and the help they deserve.

This Congress and this Senate cannot go home and cannot leave Washington until we ensure that our people in North Carolina have a home to go to.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KOHL. Mr. President, I rise to explain briefly why I have held all legislation—including appropriations bills. It revolves around the issue of dairy pricing policies and dairy compacts. One is a national milk pricing system. I will explain that first and explain my concerns about what is happening.

There is a national milk pricing policy which has been in effect for about 60 years. It was set up in a way that said the further away you live from Wisconsin, if you are a dairy farmer, the more you get for your milk. The government set that policy up to encourage the formation of a national dairy industry because transportation—particularly refrigeration—was not available at that time. They said the further you live from Wisconsin, the more you get for your milk. That was 60 years ago. That kind of policy no longer makes any sense.

In lieu of and in consideration of that, the Secretary of Agriculture and the USDA have come up with a new pricing system which does not eliminate the differential. It simply reduces it. Ninety-seven percent of the farmers in our country voted for it. It was set to be implemented on October 1st.

Now we find out that the Republicans are apparently intending to go back to the old pricing system. That is a disaster for our country. It certainly is a disaster for Midwestern farmers, and it doesn't reflect the reality of our present-day system.

Again, farmers in the Midwest and from Wisconsin are not asking for any advantage. They simply want to have the same opportunities for marketing their product in a competitive way as dairy farmers all over the country. It seems to me that is a reasonable request.

That is why we are so distressed at the impending outcome of what is going on in the House and will be here before the Senate very shortly.

The other one is the Northeast Dairy Compact. The Northeast Dairy Compact seeks to set arbitrarily, without consideration for market activities, a price for their dairy farmers to sell their milk to processors. That price is generally higher than market prices. It makes it very difficult, if not impossible, for anybody else in other parts of the country to market their milk or their milk products in the Northeast Dairy Compact States—the New England States—because when the prices are arbitrarily decided, the processors are then obviously likely to buy their milk from the local farmer rather than to buy it from somebody in another State.

In effect, it excludes the opportunity to market your product—in this case milk—in the New England States. That is not only a disaster for us in the Midwest; it clearly is terrible national economic policy.

If it is allowed again to be renewed at this time—it expired in October—we would be endorsing a national policy which for the first time in the history of our country excludes products from being sold without interference in all 50 States. We have never done that before. The genius and the success of the

American system is based on our ability—no matter where we live in this country—to manufacture and sell products and services anywhere else in this country without restrictions.

The Northeast Dairy Compact says, no; we are not going to do that anymore.

If we allow the Northeast to do that, then for what reason would we not allow other sections of the country to set up their own milk cartels, and for that matter, cartels on other products? If we allow it for the Northeast Dairy Compact, then I say unequivocally there is no justification for not allowing it elsewhere, not only on milk but on other products.

I ask my fellow Senators: Is this the way to run a country economically? Would any of us think we would endorse that kind of policy where States and regions can decide for themselves not to allow other products into those States or regions?

It doesn't make any sense. It is not the way we built the country.

We should not renew, therefore, the Northeast Dairy Compact at this time.

It was born 3 years ago in a back-room deal. There was no vote on the floor of the Senate. It was presented as part of a very large farm package. It was voted on in an affirmative way, but not by itself because it was part of a farm package 3 years ago. It is intended to be renewed again this year as part of a back-room deal without debate on the floor. It was debated twice all by itself. It lost on a straight up-and-down vote 3 or 4 years ago. The Northeast Dairy Compact lost on a cloture vote just several months ago.

I am very concerned about both things: The milk marketing pricing system, and the Northeast Dairy Compact. I am concerned enough to have a hold on all other legislation.

I hope very much that my fellow Senators can see the wisdom of my decision and support me in this effort not only to do what is right for Middle-Western dairy farmers but to do what is right for the people who live and work all over this country.

I thank the Chair. I yield the floor.

Mr. FEINGOLD. Mr. President, I ask unanimous consent I be allowed to speak for 10 minutes on the subject of the dairy issue.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FEINGOLD. Mr. President, I thank my senior colleague, Senator KOHL, for his efforts to fight for Wisconsin dairy farmers. We have worked long and hard together on this. We are determined to see this through.

For 60 years, dairy farmers across America have been steadily driven out of business and disadvantaged by the current Federal dairy policy. It is hard to believe this, but in 1950 Wisconsin had over 143,000 dairy farms; after nearly 50 years of the current dairy policy, Wisconsin is left with only 23,000 dairy farms. Let me repeat that: from 143,000 to 23,000 during this time period.

Why would anyone seek to revive a dairy policy that has destroyed over 110,000 dairy farms in a single State? That is more than five out of six farms in the last half century. This devastation has not been limited to Wisconsin. Since 1950, America has lost over 3 million dairy farms, and this trend is accelerating. Since 1958, America has lost over half of its dairy producers.

Day after day, season after season, we are losing dairy farms at an alarming rate. While the operations disappear, we are seeing the emergence of larger dairy farms. The trend toward large dairy operations is mirrored in States throughout the Nation. The economic losses associated with the reduction of small farms goes well beyond the impact of individual farm families who have been forced off the land. It is much broader than that.

The loss of these farms has devastated rural communities where small, family-owned dairy farms are the key to economic stability.

As Senator KOHL has alluded to during the consideration of the 1996 farm bill, Congress did seek to make changes in the unjust Federal pricing system by phasing out the milk price support program and to finally reduce the inequities between the regions.

Unfortunately, that is not what happened at all. It didn't work. Because of the back-door politicking during the eleventh hour of the conference committee, America's dairy farmers were stuck with the devastatingly harmful Northeast Dairy Compact. Although it is painful and difficult for everyone, we in the Upper Midwest cannot stand for that or any change that further disadvantages our dairy farms—the ones who are left, not the tens of thousands who are gone but the less than 25,000 who remain. We are determined to keep them in business.

The Northeast Dairy Compact accentuates the current system's equities by authorizing six Northeastern States to establish a minimum price for fluid milk, higher even than those established under the Federal milk marketing order, which are already pretty high and, frankly, much higher than our folks get. The compact not only allows the six States to set artificially high prices for producers but permits them to block the entry of lower-priced milk from competing States. Further distorting the market are subsidies given to processors in these six States to export their higher-priced milk to noncompact States.

Despite what some argue, the Northeastern Dairy Compact has not even helped small Northeastern farmers. Since the Northeast first implemented the compact in 1997, small dairy farms in the Northeast, which are supposed to have been helped, have gone out of business at a rate of 41 percent higher than they had in the previous 2 years. It is not even working for the limited purposes it was supposed to serve.

Compacts often amount to a transfer of wealth to large farms by affording large farms a per farm subsidy that is actually 20 times greater than the meager subsidy given to small farmers.

As my senior colleague has indicated, we need to support the moderate reforms of the USDA and reject the harmful dairy rider and let our dairy farmers get a fair price for their milk. I know as we go through the coming days this may mean substantial delays. We all want to go home to our States as early as possible. However, Senator KOHL and I are determined to do our best to fight for the remaining Wisconsin dairy farmers. Some of those steps may be necessary in order to achieve that goal.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the joint resolution is considered read the third time and passed, and the motion to reconsider is laid upon the table.

The joint resolution (H.J. Res. 80) was considered read the third time and passed.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BANKRUPTCY REFORM ACT OF 1999—Continued

AMENDMENT NO. 2756

(Purpose: To discourage indiscriminate extensions of credit and resulting consumer insolvency, and for other purposes)

Mrs. FEINSTEIN. Mr. President, I ask to call up amendment No. 2756.

Mr. GRASSLEY. Reserving the right to object, is there a unanimous consent agreement before the Senate?

The PRESIDING OFFICER (Mr. CRAPO). There is a unanimous consent agreement permitting the Senator from California to offer an amendment at this time.

Mr. GRASSLEY. I withdraw my reservation.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative assistant read as follows:

The Senator from California [Mrs. FEINSTEIN], for herself and Mr. JEFFORDS, proposes an amendment numbered 2756.

Mrs. FEINSTEIN. I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. ___. ENCOURAGING CREDITWORTHINESS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) certain lenders may sometimes offer credit to consumers indiscriminately, without taking steps to ensure that consumers

are capable of repaying the resulting debt, and in a manner which may encourage certain consumers to accumulate additional debt; and

(2) resulting consumer debt may increasingly be a major contributing factor to consumer insolvency.

(b) STUDY REQUIRED.—The Board of Governors of the Federal Reserve System (hereafter in this section referred to as the ''Board'') shall conduct a study of—

(1) consumer credit industry practices of soliciting and extending credit—

(A) indiscriminately;

(B) without taking steps to ensure that consumers are capable of repaying the resulting debt; and

(C) in a manner that encourages consumers to accumulate additional debt; and

(2) the effects of such practices on consumer debt and insolvency.

(c) REPORT AND REGULATIONS.—Not later than 12 months after the date of enactment of this Act, the Board—

(1) shall make public a report on its findings with respect to the indiscriminate solicitation and extension of credit by the credit industry;

(2) may issue regulations that would require additional disclosures to consumers; and

(3) may take any other actions, consistent with its existing statutory authority, that the Board finds necessary to ensure responsible industrywide practices and to prevent resulting consumer debt and insolvency.

Mrs. FEINSTEIN. This is submitted on behalf of Senator JEFFORDS of Vermont and myself. This is the same amendment that passed the Senate last year by voice vote. It is an important amendment, which is why I wish to do it today and ask for a rollcall vote.

Last year it was deleted in conference. I believe it will suffer the same fate today if it were simply accepted. I note that the managers have agreed to accept the amendment. I particularly want the Senator from Iowa to know that I am very grateful for that accommodation. However, I run the risk in allowing it to be accepted that it is again expunged in conference.

This amendment requires the Federal Reserve Board to investigate the practice of issuing credit cards indiscriminately and inappropriately and to take necessary action to ensure that consumer credit is not extended recklessly or in a manner that encourages practices which cause consumer bankruptcies.

One part of the amendment, a brief paragraph, is a sense of the Senate that finds that certain lenders may offer credit to consumers indiscriminately and don't take steps to ensure that consumers have the capacity to repay the resulting debt, possibly encouraging consumers to even accumulate additional debt. We all know that to be true. The amendment then goes on to say that the resulting consumer debt may increasingly be a major contributing factor to consumer bankruptcies.

This amendment would authorize the Federal Reserve Board to conduct a study of industry practices of soliciting and extending credit indiscriminately without taking those steps that are prudent to ensure consumers are capable of repaying that debt. Within 1 year of enactment, the Federal Reserve Board would make a public report on its findings regarding the credit industry's indiscriminate solicitation and extension of credit.

The amendment then would allow the Federal Reserve Board to issue regulations that would require additional disclosures to consumers and to take any other actions, consistent with its statutory authority, that the Board finds necessary to ensure responsible industry-wide practices and to prevent resulting consumer debt and insolvency.

Why this amendment? Why is this amendment needed? This amendment directly addresses one of the major causes of personal bankruptcies: bad consumer credit card debt. The typical family filing for bankruptcy in 1998 owed more than 1½ times its annual income in short-term, high-interest debt. This means that the average family in bankruptcy, with a median income of just over $17,500, had $28,955 in credit card and other short-term, high-interest debt—almost double the income of debt.

Studies by the Congressional Budget Office, the FDIC, and independent economists all link the rise in personal bankruptcies directly to the rise in consumer debt. As consumer debt has risen to an all-time high, so have consumer bankruptcies. Any meaningful bankruptcy reform I think must address irresponsible actions of certain segments of the credit card industry because, after all, this is the major problem that is exacerbating bankruptcy and increasing the number of filings.

Last year, the credit card industry sent out a record 3.45 billion unsolicited offers. That is 30 solicitations for credit cards to every household in America. The number of solicitations jumped 15 percent from the last time I did this amendment to this time I am doing this amendment. So instead of slowing down irresponsible offers of credit to people who cannot possibly repay that credit, they have sped it up.

There are over 1 billion credit cards in circulation, a dozen credit cards for every household in this country. Three-quarters of all households have at least one credit card. Credit card debt has doubled between 1993 and 1997, to $422 billion from just over $200 billion.

During this 2-year debate on this bankruptcy bill, which I support, my staff has contacted numerous credit card issuers. The overwhelming majority of these companies do not check the income of the consumers being solicited. In other words, credit card issuers have no idea whether persons to whom they issued credit cards have the means to pay their bill each month.

One of my constituents from Lakewood, CA, wrote, and this really describes this aptly:

What really bugs me about this is that credit card companies send out these solicitations for their plastic cards, and then when they get burned, they start crying foul. They want all kinds of laws passed to protect them from taking hits when it's their own practices that caused the problem.

There is a real element of truth in this. This amendment will not affect any responsible lender. It will not affect the vast majority of the credit card industry who responsibly check consumer credit history before issuing or preapproving credit cards.

Representatives of large credit card issuers have assured me and my staff that they do not provide credit cards to consumers without a thorough credit check. However, I note that major credit cards, such as Visa or MasterCard, do not require banks who issue their cards to check credit history. That is a bona fide area at which an investigation and a study should take a look. Is this a good practice, not to check the bank who issues your card under your auspices and see that they also check the creditworthiness of the individual?

This amendment would affect lenders who fail to even inquire into the consumer's ability to pay or those who specifically target consumers who cannot repay the balances. It was news to me that there is a whole category of companies out there who actually go after people who are overcome with credit card debt and offer them more credit cards to repay that debt. A growing segment of the credit industry, known as subprime lenders, increasingly searches for risk borrowers who they know will make inappropriately low minimum monthly payments and carry large balances from month to month and have to pay extraordinarily high interest rates.

This kind of lending has become the fastest growing, most profitable subset of consumer lending. Although losses are substantial, interest rates of 18 percent to 40 percent on credit card debt make this lending profitable. Many of these often relatively unsophisticated borrowers do not realize that minimum monthly payments just put them deeper in a hole which, in many cases, leads to bankruptcy.

I have somebody close to me who is in that situation and has been in that situation from 1991 to the present day with six or eight credit cards, does not have the income to repay them, and all this individual has had is mounting interest payments and can never get to the principal of the debt. No matter how this individual responds within his or her capabilities, he or she cannot possibly pay off the debt. I even stepped in and made an offer to the credit card companies to repay the debt with a modicum of interest attached to it for this individual and was turned down. They said they made an offer to settle and they rejected the offer, they withdrew the offer of settlement.

Industry analysts estimate that using a typical minimum monthly payment rate on a credit card in order to pay off a $2,500 balance—that is a balance of just $2,500—assuming the consumer never uses the card to charge

anything else ever again, would take 34 years to pay off the balance. That is the situation in which people find themselves.

It is my belief that this is irresponsible. What we are asking is the Federal Reserve do a study, an investigation to see if they agree this is irresponsible.

So this is the core concept.

Oh, let me make one other point. On the situation I just indicated to you, that somebody who had that balance of $2,500 never used the card to charge anything else again, it would take 34 years to pay off that balance. Total payments would exceed 300 percent of the principal.

So what I have found out is, there are people who are needy, who succumb to these credit cards, who engage in not just one credit card with $10,000, but five or six or seven or eight, and maybe have an income of $17,000 or $15,000 a year. They make these purchases, they get into trouble, and they can never pay off their debt. So, yes, bankruptcy looms as the only alternative.

To tighten up their obligations to pay back the debt—which I am in agreement of doing—and yet not evaluate whether these policies of lending are as responsible as they should be is absolutely wrong.

So for the second time in 2 years, I offer this amendment and I ask for the yeas and nays in the hopes that the amendment will be agreed to and will remain in the bill in conference.

The PRESIDING OFFICER. Is the Senator requesting the yeas and nays at this time?

Mrs. FEINSTEIN. I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENTS NOS. 2655, AS MODIFIED; 2764, AS MODIFIED; AND 2661, AS MODIFIED

Mr. GRASSLEY. Mr. President, I would like to ask unanimous consent on some amendments that have been agreed to.

I ask unanimous consent that the following amendments, as modified where noted, be considered agreed to, en bloc, and the motions to reconsider be laid upon the table, en bloc. The amendments are as follows: No. 2655, as modified; No. 2764, as modified; and No. 2661, as modified. I send the modifications to the desk.

Mr. SCHUMER addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Reserving the right to object.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SCHUMER. I thank the Senator.

The Senator from Iowa knows I reserve that right but will not ultimately object. But I do want to point out to my colleagues that the amendments to be accepted by unanimous consent, which deal with the ''teaser'' issue, which deal with disclosure on credit cards, in my judgment, do not go very far and need to go much further. I suggest to my colleagues that the amendment Mr. SANTORUM of Pennsylvania and I have offered would go much further on what would do the job.

Let me be very clear. I have been working on credit card disclosure for over 10 years. A while ago, about 7 or 8 years ago, we passed something we thought required the credit card companies to disclose, in large numerical print, how much the annual interest rate was. That is really the key issue when you decide what credit card to take. Many of the credit card companies use ''teaser'' rates. They say 2 percent or 3 percent for a couple of months and then raise it to 10 or 11 or 15 percent.

So we drafted an amendment. But at the request of the industry, we were not very specific. They said: You don't have to specify how large the print should be or what should be in the box; just do it. It became law. The box was known as the Schumer box.

Let me show you what it is in current law. This credit card shown on this chart is governed by that law. The only large print and the only number you see is ''3.9 percent.'' That is what is called the ''teaser'' rate. It is only offered for a few months.

When it is time to pay your regular annual fee—in this case, 9.9 percent—in the box is just a lot of legal gobbledygook, and you can hardly see what the number is. To understand it is the 9.9 percent or the 19.99 percent which governs, you probably have to have a degree from Harvard Law School.

What the Grassley-Torricelli amendment does is allow this kind of deception to continue. It makes some improvements, but it does not make the real improvement of disclosure. I have talked to leaders of the credit card industry. They say: Don't cap us. Don't limit us. We are not against disclosure. Then when we come up with a proposal, Mr. SANTORUM and I, that simply says they have to show the amount in 24-point type—and here is what it says: ''Long-term annual percentage rate of purchases,'' and the amount—we get opposition.

Many of those who are close to the credit card industry have told me the industry has told them they are against it. They say they are for disclosure, but they really are not.

I do not have to oppose this amendment because we have a better alternative. The alternative is this. If you really believe in disclosure, the Santorum-Schumer amendment is the way to go.

What is shown on this chart is deceptive. In all due respect to my good friend from Iowa, who I know cares strongly about this issue, his amendment will not change that one drop. They will have in big letters the ''teaser'' rate and in hardly intelligible language what the real interest rate is.

I would normally object to this unanimous consent request. But because there is an alternative to make real disclosure, and because we have already debated, and because I know it is our right to get a vote on that amendment, I will not object.

But I want my colleagues to understand one thing: We are not doing much, if anything, for the cause of real disclosure, for the cause of letting consumers see the interest rate they are paying before they buy the credit card, unless we pass the Schumer-Santorum amendment.

So I withdraw my objection to this amendment. I know it is offered in good faith. But please let my colleagues understand that if you want real disclosure—no more, just disclosure, Adam Smith economics—the only way to get it is not by an amendment that allows the industry to continue deceptive practices but, rather, by the Schumer-Santorum amendment which says, in no uncertain terms, ''9.99 percent''—whatever the interest rate is—24-point type, in large letters.

I thank the Senator from Iowa for his courtesy. I withdraw any objection to the unanimous consent request.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. Before the Chair rules, I think the Senator from Nevada wishes to make a statement.

Mr. REID. Mr. President, we appreciate the cooperation of all Members, especially the Senator from New York, who is always so involved in what goes on on the floor but also always so willing to work toward a resolution.

It is my understanding that at this time the Senator is not intending to offer amendment No. 2765 which has been filed.

Mr. SCHUMER. That is correct.

Mr. REID. I also say to my friend, before the unanimous consent agreement is entered, we have a number of amendments that perhaps at some later time—I understand there are going to be some votes around 4 o'clock. We can include, for example, the amendment of the Senator from California which is now pending. And there may be some others—for example, the one from the Senator from New York, No. 2761, which he filed and debated last week. So I would like the manager of the bill to take a look at those and see if we can get some definite times set.

No objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The unanimous consent request is agreed to.

The amendments (Nos. 2655, as modified; 2764, as modified; and 2661, as modified) were agreed to, as follows:

AMENDMENT NO. 2655, AS MODIFIED

(Purpose: To provide for enhanced consumer credit protection, and for other purposes)

At the end of the bill, add the following new title:

TITLE—CONSUMER CREDIT DISCLOSURE

SEC. ___01. ENHANCED DISCLOSURES UNDER AN OPEN END CREDIT PLAN.

(a) MINIMUM PAYMENT DISCLOSURES.—Section 127(b) of the Truth in Lending Act (15

U.S.C. 1637(b)) is amended by adding at the end the following:

''(11)(A) In the case of an open end credit plan that requires a minimum monthly payment of not more than 4 percent of the balance on which finance charges are accruing, the following statement, located on the front of the billing statement, disclosed clearly and conspicuously, in typeface no smaller than the largest typeface used to make other clear and conspicuous disclosures required under this subsection: 'Minimum Payment Warning: Making only the minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 2% minimum monthly payment on a balance of $1,000 at an interest rate of 17% would take 88 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum payments, call this toll-free number: _____.'.

''(B) In the case of an open end credit plan that requires a minimum monthly payment of more than 4 percent of the balance on which finance charges are accruing, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously, in typeface no smaller than the largest typeface used to make other clear and conspicuous disclosures required under this subsection: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. Making a typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call this toll-free number: _____.'.

''(C) Notwithstanding subparagraphs (A) and (B), in the case of a creditor with respect to which compliance with this title is enforced by the Federal Trade Commission, the following statement, in a prominent location on the front of the billing statement, disclosed clearly and conspicuously, in typeface no smaller than the largest typeface used to make other clear and conspicuous disclosures under this subsection: 'Minimum Payment Warning: Making only the required minimum payment will increase the interest you pay and the time it takes to repay your balance. For example, making only the typical 5% minimum monthly payment on a balance of $300 at an interest rate of 17% would take 24 months to repay the balance in full. For an estimate of the time it would take to repay your balance, making only minimum monthly payments, call the Federal Trade Commission at this toll-free number: _____.' A creditor who is subject to this subparagraph shall not be subject to subparagraph (A) or (B).

''(D) Notwithstanding subparagraphs (A), (B), or (C), in complying with any such subparagraph, a creditor may substitute an example based on an interest rate that is greater than 17 percent. Any creditor who is subject to subparagraph (B) may elect to provide the disclosure required under subparagraph (A) in lieu of the disclosure required under subparagraph (B).

''(E) The Board shall, by rule, periodically recalculate, as necessary, the interest rate and repayment period under subparagraphs (A), (B), and (C).

''(F) The toll-free telephone number disclosed by a creditor or the Federal Trade Commission under subparagraph (A), (B), or (G), as appropriate, may be a toll-free telephone number established and maintained by the creditor or the Federal Trade Commission, as appropriate, or may be a toll-free telephone number established and maintained by a third party for use by the creditor or multiple creditors or the Federal Trade Commission, as appropriate. The toll-free telephone number may connect consumers to an automated device through which consumers may obtain information described in subparagraph (A), (B), or (C), by inputting information using a touch-tone telephone or similar device, if consumers whose telephones are not equipped to use such automated device are provided the opportunity to be connected to an individual from whom the information described in subparagraph (A), (B), or (C), as applicable, may be obtained. A person that receives a request for information described in subparagraph (A), (B), or (C) from an obligor through the toll-free telephone number disclosed under subparagraph (A), (B), or (C), as applicable, shall disclose in response to such request only the information set forth in the table promulgated by the Board under subparagraph (H)(i).

''(G) The Federal Trade Commission shall establish and maintain a toll-free number for the purpose of providing to consumers the information required to be disclosed under subparagraph (C).

''(H) The Board shall—

''(i) establish a detailed table illustrating the approximate number of months that it would take to repay an outstanding balance if the consumer pays only the required minimum monthly payments and if no other advances are made, which table shall clearly present standardized information to be used to disclose the information required to be disclosed under subparagraph (A), (B), or (C), as applicable;

''(ii) establish the table required under clause (i) by assuming—

''(I) a significant number of different annual percentage rates;

''(II) a significant number of different account balances;

''(III) a significant number of different minimum payment amounts; and

''(IV) that only minimum monthly payments are made and no additional extensions of credit are obtained; and

''(iii) promulgate regulations that provide instructional guidance regarding the manner in which the information contained in the table established under clause (i) should be used in responding to the request of an obligor for any information required to be disclosed under subparagraph (A), (B), or (C).

''(I) The disclosure requirements of this paragraph do not apply to any charge card account, the primary purpose of which is to require payment of charges in full each month.

''(J) A creditor that maintains a toll-free telephone number for the purpose of providing customers with the actual number of months that it will take to repay the consumer's outstanding balance is not subject to the requirements of subparagraphs (A) and (B).

(b) REGULATORY IMPLEMENTATION.—The Board of Governors of the Federal Reserve System (hereafter in this Act referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section. Section 127(b)(11) of the Truth in Lending Act, as added by subsection (a) of this section, and the regulations issued under this subsection shall not take effect until the later of 18 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.

(c) STUDY OF FINANCIAL DISCLOSURES.—

(1) IN GENERAL.—The Board may conduct a study to determine whether consumers have adequate information about borrowing activities that may result in financial problems.

(2) FACTORS FOR CONSIDERATION.—In conducting a study under paragraph (1), the Board should, in consultation with the other Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act), the National Credit Union Administration, and the Federal Trade Commission, consider the extent to which—

(A) consumers, in establishing new credit arrangements, are aware of their existing payment obligations, the need to consider those obligations in deciding to take on new credit, and how taking on excessive credit can result in financial difficulty;

(B) minimum periodic payment features offered in connection with open end credit plans impact consumer default rates;

(C) consumers make only the minimum payment under open end credit plans;

(D) consumers are aware that making only minimum payments will increase the cost and repayment period of an open end credit obligation; and

(E) the availability of low minimum payment options is a cause of consumers experiencing financial difficulty.

(3) REPORT TO CONGRESS.—Findings of the Board in connection with any study conducted under this subsection shall be submitted to Congress. Such report shall also include recommendations for legislative initiatives, if any, of the Board, based on its findings.

SEC. ___02. ENHANCED DISCLOSURE FOR CREDIT EXTENSIONS SECURED BY A DWELLING.

(a) OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 127A(a)(13) of the Truth in Lending Act (15 U.S.C. 1637a(a)(13)) is amended—

(A) by striking ''CONSULTATION OF TAX ADVISOR.—A statement that the'' and inserting the following: ''TAX DEDUCTIBILITY.—A statement that—

''(A) the''; and

(B) by striking the period at the end and inserting the following: ''; and

''(B) in any case in which the extension of credit exceeds the fair market value (as defined under the Federal Internal Revenue Code) of the dwelling, the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes.''.

(2) CREDIT ADVERTISEMENTS.—Section 147(b) of the Truth in Lending Act (15 U.S.C. 1665b(b)) is amended—

(A) by striking ''If any'' and inserting the following:

''(1) IN GENERAL.—If any''; and

(B) by adding at the end the following:

''(2) CREDIT IN EXCESS OF FAIR MARKET VALUE.—Each advertisement described in subsection (a) that relates to an extension of credit that may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall include a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax advisor for further information regarding the deductibility of interest and charges.''.

(b) NON-OPEN END CREDIT EXTENSIONS.—

(1) CREDIT APPLICATIONS.—Section 128 of the Truth in Lending Act (15 U.S.C. 1638) is amended—

(A) in subsection (a), by adding at the end the following:

''(15) In the case of a consumer credit transaction that is secured by the principal dwelling of the consumer, in which the extension of credit may exceed the fair market value of the dwelling, a clear and conspicuous statement that—

''(A) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(B) the consumer should consult a tax advisor for further information regarding the deductibility of interest and charges.''; and

(B) in subsection (b), by adding at the end the following:

''(3) In the case of a credit transaction described in paragraph (15) of subsection (a), disclosures required by that paragraph shall be made to the consumer at the time of application for such extension of credit.''.

(2) CREDIT ADVERTISEMENTS.—Section 144 of the Truth in Lending Act (15 U.S.C. 1664) is amended by adding at the end the following:

''(e) Each advertisement to which this section applies that relates to a consumer credit transaction that is secured by the principal dwelling of a consumer in which the extension of credit may exceed the fair market value of the dwelling, and which advertisement is disseminated in paper form to the public or through the Internet, as opposed to by radio or television, shall clearly and conspicuously state that—

''(1) the interest on the portion of the credit extension that is greater than the fair market value of the dwelling is not tax deductible for Federal income tax purposes; and

''(2) the consumer should consult a tax advisor for further information regarding the deductibility of interest and charges.''.

(c) REGULATORY IMPLEMENTATION.—The Board of Governors of the Federal Reserve System (hereafter in this Act referred to as the ''Board'') shall promulgate regulations implementing the requirements of subsectons (a) and (b) of this section. Such regulations shall not take effect until the later of 12 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.

SEC. ___03. DISCLOSURES RELATED TO "INTRODUCTORY RATES".

(a) Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(6) ADDITIONAL NOTICE CONCERNING 'INTRODUCTORY RATES'.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an application or solicitation to open a credit card account and all promotional materials accompanying such application or solicitation, for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest, shall—

''(i) use the term 'introductory' in immediate proximity to each listing of the temporary annual percentage rate applicable to such account, which term shall appear clearly and conspicuously;

''(ii) if the annual percentage rate of interest that will apply after the end of the temporary rate period will be a fixed rate, state the following in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing of the temporary annual percentage rate in the tabular format described in section 122(c)) or, if the first listing is not the most prominent listing, then closely proximate to the most prominent listing of the temporary annual percentage rate, in each document and in no smaller type size than the smaller of the type size in which the proximate temporary annual percentage rate appears or a 12-point type size, the time period in which the introductory period will end and the annual percentage rate that will apply after the end of the introductory period; and

''(iii) if the annual percentage rate that will apply after the end of the temporary rate period will vary in accordance with an index, state the following in a clear and conspicuous manner in a prominent location closely proximate to the first listing of the temporary annual percentage rate (other than a listing in the tabular format prescribed by section 122(c)) or, if the first listing is not the most prominent listing, then closely proximate to the most prominent listing of the temporary annual percentage rate, in each document and in no smaller type size than the smaller of the type size in which the proximate temporary annual percentage rate appears or a 12-point type size, the time period in which the introductory period will end and the rate that will apply after that, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

''(B) EXCEPTION.—Clauses (ii) and (iii) of subparagraph (A) do not apply with respect to any listing of a temporary annual percentage rate on an envelope or other enclosure in which an application or solicitation to open a credit card account is mailed.

''(C) CONDITIONS FOR INTRODUCTORY RATES.—An application or solicitation to open a credit card account for which a disclosure is required under paragraph (1), and that offers a temporary annual percentage rate of interest shall, if that rate of interest is revocable under any circumstance or upon any event, clearly and conspicuously disclose, in a prominent manner on or with such application or solicitation—

''(i) a general description of the circumstances that may result in the revocation of the temporary annual percentage rate; and

''(ii) if the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate—

''(I) will be a fixed rate, the annual percentage rate that will apply upon the revocation of the temporary annual percentage rate; or

''(II) will vary in accordance with an index, the rate that will apply after the temporary rate, based on an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation.

''(D) DEFINITIONS.—In this paragraph—

''(i) the terms 'temporary annual percentage rate of interest' and 'temporary annual percentage rate' mean any rate of interest applicable to a credit card account for an introductory period of less than 1 year, if that rate is less than an annual percentage rate that was in effect within 60 days before the date of mailing the application or solicitation; and

''(ii) the term 'introductory period' means the maximum time period for which the temporary annual percentage rate may be applicable.

''(E) RELATION TO OTHER DISCLOSURE REQUIREMENTS.—Nothing in this paragraph may be construed to supersede subsection (a) of section 122, or any disclosure required by paragraph (1) or any other provision of this subsection.''.

(b) REGULATORY IMPLEMENTATION.—The Board of Governors of the Federal Reserve System (hereafter in this Act referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127 of the Truth in Lending Act, as amended by subsection (a) of this section. Any provision set forth in subsection (a) and such regulations shall not take effect until the later of 12 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.

SEC. ___04. INTERNET-BASED CREDIT CARD SOLICITATIONS.

(a) Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended by adding at the end the following:

''(7) INTERNET-BASED APPLICATIONS AND SOLICITATIONS.—

''(A) IN GENERAL.—In any solicitation to open a credit card account for any person under an open end consumer credit plan using the Internet or other interactive computer service, the person making the solicitation shall clearly and conspicuously disclose—

''(i) the information described in subparagraphs (A) and (B) of paragraph (1); and

''(ii) the disclosures described in paragraph (6).

''(B) FORM OF DISCLOSURE.—The disclosures required by subparagraph (A) shall be—

''(i) readily accessible to consumers in close proximity to the solicitation to open a credit card account; and

''(ii) updated regularly to reflect the current policies, terms, and fee amounts applicable to the credit card account.

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

''(i) the term 'Internet' means the international computer network of both Federal and non-Federal interoperable packet switched data networks; and

''(ii) the term 'interactive computer service' means any information service, system, or access software provider that provides or enables computer access by multiple users to a computer server, including specifically a service or system that provides access to the Internet and such systems operated or services offered by libraries or educational institutions.''.

(b) REGULATORY IMPLEMENTATION.—The Board of Governors of the Federal Reserve System (hereafter in this Act referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127 of the Truth in Lending Act, as amended by subsection (a) of this section. Any provision set forth in subsection (a) and such regulations shall not take effect until the later of 12 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.

SEC. ___05. DISCLOSURES RELATED TO LATE PAYMENT DEADLINES AND PENALTIES.

(a) Section 127(b) of the Truth in Lending Act (15 U.S.C. 1637(b)) is amended by adding at the end the following:

''(12) If a late payment fee is to be imposed due to the failure of the obligor to make payment on or before a required payment due date the following shall be stated clearly and conspicuously on the billing statement:

''(A) The date on which that payment is due or, if different, the earliest date on which a late payment fee may be charged.

''(B) The amount of the late payment fee to be imposed if payment is made after such date.''.

(b) REGULATORY IMPLEMENTATION.—The Board of Governors of the Federal Reserve System (hereafter in this Act referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127 of the Truth in Lending Act, as amended by subsection (a) of this section. Any provision set forth in subsection (a) and such regulations shall not take effect until the later of 12 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.

SEC. ___06. PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.

(a) Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end the following:

''(h) PROHIBITION ON CERTAIN ACTIONS FOR FAILURE TO INCUR FINANCE CHARGES.—A creditor of an account under an open end consumer credit plan may not terminate an account prior to its expiration date solely because the consumer has not incurred finance charges on the account. Nothing in this subsection shall prohibit a creditor from terminating an account for inactivity in 3 or more consecutive months.''.

(b) REGULATORY IMPLEMENTATION.—The Board of Governors of the Federal Reserve System (hereafter in this Act referred to as the ''Board'') shall promulgate regulations implementing the requirements of section 127 of the Truth in Lending Act, as amended by subsection (a) of this section. Any provision set forth in subsection (a) and such regulations shall not take effect until the later of 12 months after the date of enactment of this Act or 12 months after the publication of such regulations by the Board.

SEC. ___07. DUAL USE DEBIT CARD.

(a) REPORT.—The Board may conduct a study of, and present to Congress a report containing its analysis of, consumer protections under existing law to limit the liability of consumers for unauthorized use of a debit card or similar access device. Such report, if submitted, shall include recommendations for legislative initiatives, if any, of the Board, based on its findings.

(b) CONSIDERATIONS.—In preparing a report under subsection (a), the Board may include—

(1) the extent to which section 909 of the Electronic Fund Transfer Act (15 U.S.C. 1693g), as in effect at the time of the report, and the implementing regulations promulgated by the Board to carry out that section provide adequate unauthorized use liability protection for consumers;

(2) the extent to which any voluntary industry rules have enhanced or may enhance the level of protection afforded consumers in connection with such unauthorized use liability; and

(3) whether amendments to the Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.), or revisions to regulations promulgated by the Board to carry out that Act, are necessary to further address adequate protection for consumers concerning unauthorized use liability.

SEC. ___08. STUDY OF BANKRUPTCY IMPACT OF CREDIT EXTENDED TO DEPENDENT STUDENTS.

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study regarding the impact that the extension of credit described in paragraph (2) has on the rate of bankruptcy cases filed under title 11, United States Code.

(2) EXTENSION OF CREDIT.—The extension of credit referred to in paragraph (1) is the extension of credit to individuals who are—

(A) claimed as dependents for purposes of the Internal Revenue Code of 1986; and

(B) enrolled in postsecondary educational institutions.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Senate and the House of Representatives a report summarizing the results of the study conducted under subsection (a).

AMENDMENT NO. 2764, AS MODIFIED

(Purpose: To provide for greater accuracy in certain means testing)

On page 7, strike line 24 through page 8, line 3, and insert the following:

''(I) the sum of—

''(aa) the total of all amounts scheduled as contractually due to secured creditors in each month of the 60 months following the date of the petition; and

''(bb) any additional payments to secured creditors necessary for the debtor, in filing a plan under chapter 13 of this title, to maintain possession of the debtor's primary residence, motor vehicle, or other property necessary for the support of the debtor and the debtor's dependents, that serves as collateral for secured debts; divided by

''(II) 60.

AMENDMENT NO. 2661, AS MODIFIED

(Purpose: To establish parameters for presuming that filing of a case under chapter 7 of title 11, United States Code, does not constitute an abuse of that chapter)

On page 12, between line 10 and 11, insert the following:

''In any case in which a motion to dismiss or convert or a statement is required to be filed by this subsection, the U.S. Trustee or Bankruptcy Administrator may decline to file a motion to dismiss or convert pursuant to 704(b)(2) or if

''(iA) the product of the debtor's current monthly income multiplied by 12—

''(I)(aa) exceeds 100 percent, but does not exceed 150 percent of the national or applicable State median household income reported for a household of equal size, whichever is greater; or

''(bb) in the case of a household of 1 person, exceeds 100 percent but does not exceed 150 percent of the national or applicable State median household income reported for 1 earner, whichever is greater; and

''(II) the product of the debtor's current monthly income (reduced by the amounts determined under clause (ii) (except for the amount calculated under the other necessary expenses standard issued by the Internal Revenue Service and clauses (iii) and (iv) multiplied by 60 is less than the greater of—

''(aa) 25 percent of the debtor's nonpriority unsecured claims in the case;

''(bb) $15,000.''

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GRASSLEY. 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. 2762

Mr. GRASSLEY. Mr. President, I ask unanimous consent that we now move to consideration of the amendment by the Senator from New York that we call the safe harbor amendment, and I ask unanimous consent that there be 10 minutes, 5 minutes for the Senator from New York——

Mr. SCHUMER. Could we have 10 minutes on each side?

Mr. GRASSLEY. OK, 10 minutes on this side and 10 minutes to be controlled by the Senator from New York.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. Just to make sure, no second-degree amendments prior to the vote on this amendment?

Mr. GRASSLEY. We have no objection to that.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from New York is recognized for 10 minutes.

Mr. SCHUMER. Mr. President, the Senator from Illinois, Mr. DURBIN, and I are offering an amendment to do some commonsense housecleaning with respect to the means test safe harbor now in the bill and, more significantly, to restore something that was unfortunately taken out of the bill by the managers' amendment: true protection for low- and moderate-income bankruptcy filers from coercive predator litigation tactics involving section 707(b) of the bankruptcy code.

First the housecleaning: The managers' amendment included a provision stating that the bill's means test could not be used to remove low- and moderate-income debtors from chapter 7. That was undoubtedly a big step forward for this bill, and I congratulate the managers for having taken that step.

Now that the means test no longer applies to low- and moderate-income bankruptcy filers, it makes no sense for these individuals to have to file means test calculations based on their income and expenses along with the other papers they must file upon declaring bankruptcy. Likewise, it makes no sense for U.S. trustees to have to do means test calculations with respect to low- and moderate-income bankruptcy filers who, I repeat, cannot be means tested out of chapter 7. This imposes unnecessary burdens on debtors and wastes taxpayer dollars by leaving these requirements in place.

Our amendment would fix the problem by deleting these requirements only in cases involving low- and moderate-income bankruptcy filers. These filers would still have to document their income and expenses. They just wouldn't have to do means test calculations anymore, which are no longer required.

Now for the more important issue, the issue of protecting low- and moderate-income bankruptcy filers from any coercive creditor litigation tactics under 707(b). Sad to say, this only became an issue 2 days or so ago. The bill formerly had a provision preventing creditors from bringing any motion under 707(b) against low- and moderate-income bankruptcy filers. That included motions under the means test, motions alleging that the debtor filed for chapter 7 in bad faith, and motions alleging that the totality of the circumstances of the debtor's financial situation demonstrated abuse. Bankruptcy trustees could bring these motions against low- and moderate-income debtors, and appropriately so, just not creditors.

According to the report language for this bill, the ban on predator motions existed to protect low-income filers; in other words, no motion, no prospect for creditor coercion. Last year's Senate

bill had the same protection for low- and moderate-income filers. And even this year's House bill, which many consider more stringent than the Senate bill, had this protection. Yet at this late stage in the game, the managers' amendment deleted much of this bill's so-called safe harbor against creditor 707(b) motions. It continues to protect low- and moderate-income bankruptcy filers from motions under the means test but now, for the first time, leaves these debtors vulnerable to creditor motions alleging debtor bad faith or that the totality of the circumstances demonstrated debtor abuse.

This chart illustrates the problem. Under the House's bill, safe harbor creditors can bring means test or totality of circumstances motions only against above-median-income debtors. Under the Senate bill, as modified by the managers' amendment, motions against all debtors, even those with income below median income for a household of similar size, can be brought by creditors.

What is the big deal about leaving low- and moderate-income debtors vulnerable to creditor motions based on these grounds? The big deal is what some aggressive creditors will do with these motions. These creditors will use these motions and threats to bully poorer debtors into giving up their bankruptcy rights altogether, whether that means staying away from bankruptcy altogether, giving up their bankruptcy claims, or agreeing that certain of their debts simply won't be reduced or eliminated by virtue of bankruptcy.

This should trouble all of us. Debtors who can't afford to litigate with their creditors will just bow to creditors' demands.

Now, if I sound alarmist, I do so because the record is filled with examples of aggressive creditors using the motions and leverage they currently have under the bankruptcy code to coerce low- and moderate-income debtors into giving up their bankruptcy rights in some form.

In a review of a bankruptcy court case for the Western District of Oklahoma, the judge described that creditor's practice as follows:

> A review of the practices of [creditor's] attorneys . . . indicated that in 1996 the firm filed 45 complaints seeking exceptions to discharges on behalf of creditors having debts arising from credit card agreements; that 100 such complaints were filed in 1997. . . .
>
> The firm's pattern of conduct appears as little more than the use of this court and the bankruptcy code to coerce from these debtors reaffirmation of their unsecured credit card debt or some portion of it.

I could go on with other examples, but I will not to save the time of my colleagues.

Here's a bankruptcy judge from the Western District of Missouri describing the litigation practices of AT&T Universal Card Services: The [fraud] complaints, filed by AT&T, were filed solely to extract a settlement from debtors. Once AT&T realized that the case would not settle and that is would actually be required to offer evidence to support the allegations in the complaints, it moved to dismiss.

A woman from California described her experience.

> . . . on the day we went to the bankruptcy hearing, we were approached by a woman from [a retail creditor]. She explained to me who she was. At the time, I was due to give birth in two weeks. The woman told us we needed either to pay our bill in full or return items such as a sofa, washing machine, and vacuum. We weren't going to the hearing because we had money, and we couldn't afford to replace these items, which we needed. We explained these things and found an attorney. The woman then said we could keep the items if we signed a paper saying we would continue making payments. . . . We signed, of course.

There is absolutely nothing illegal about making certain types of threats today. There is not enough in this bill to stop most threats of this nature from being made—and succeeding—tomorrow.

If you still think I am thrusting at windmills, let me direct your attention to a real-life letter from a creditor's attorney to a debtor's attorney. The words speak for themselves.

> We have reason to believe that your client may have committed fraud in the use of the above-referenced credit relationship. . . .
>
> Be assured that our company is aware of the deadline for filing an objection to dischargeability and has calendared this date.

The problem is unequal bargaining power. It simply pays for the creditor to put a debtor in the position of having to burn through several thousand dollars in attorney's fees fighting over a $100 TV set.

I want to be clear about something. I am not arguing that low- and moderate-income debtors should be exempt from motions to remove them from chapter 7 for filing in bad faith or filing for chapter 7 abusively in light of the totality of their financial circumstances. All I am saying is that when it comes to a debtor with $20,000 in yearly income, leave it to the bankruptcy trustees to bring these motions. Leave it to the numerous other provisions of this bill that graft new antifraud language onto the bankruptcy code to remedy the problem. Just don't leave these debtors and their families vulnerable to the small, but not insignificant, number of wolves among the creditor population.

I was leafing through Congress Daily one day last month, and I ran into this advertisement run by the supporters of bankruptcy reform. The ad features Mel from Mel's Auto Repairs, expressing concern: ''wealthy customers getting a free ride in bankruptcy,'' ''wealthy filers,'' ''higher-income filers,'' ''wealthy Americans today . . . erasing their debts while continuing to live an affluent lifestyle.'' The theme of ''bankruptcy abuse by the wealthy'' pervades the whole ad.

Mel is right. Wealthy persons do abuse the bankruptcy system, and too often. And it needs to be stopped. But surely, subjecting low- and moderate-income debtors to new and potent creditor motions has nothing to do with cracking down on wealthy deadbeats. The rhetoric of this ad doesn't match the reality of this bill—particularly its provision subjecting a single debtor with $20,000 in income, a married debtor with a household income of $30,000, or a debtor with a spouse and two kids with a household income of $40,000, to the threat of coercive creditor litigation tactics involving 707(b) of the bankruptcy code.

I urge colleagues to vote in favor of this amendment and to simply restore this bill to what it used to be and to where the House bill is.

I yield the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, first of all, I thank the Senator from New York for his cooperation with us on a couple of amendments he has worked out with us and has withdrawn so we could get closer to completion of work on this particular amendment.

In the case of his amendment just now offered, and my opposition to it, I want to say we have taken into consideration some of the complaints he has made—not about our bill, but complaints he would have made about some of the people writing legislation in this area, that they would go too far. But I think his amendment goes too far because it would have the effect of letting bankrupts below the national median income file for bankruptcy and do it in bad faith. That would make the small businesses and honest Americans who stand to lose out—they will be told they can't do anything about it. What we want is opportunity in our legal system, in the bankruptcy system, in the courts there, to be able to make a judgment, if there is bad faith used, to do something about it—most importantly, to discourage that sort of activity.

So I think this amendment gets us back to the point where we are now under existing law—inviting abuse of the bankruptcy code.

Under our bill, which we have been debating for the last several days on the floor of the Senate, and particularly as modified by the managers' amendment now, people below the national median income are not subject to motions by anybody under the means test. But there is another part of this bill that says the bankruptcy cases can be dismissed if the debtor filed for bankruptcy in bad faith. At this point, the creditors are allowed to file motions asking a bankruptcy judge to dismiss a case if it is filed in bad faith. That is the way our litigation system works and should continue to work.

In an effort to go the extra mile, however, I accepted an amendment, by Senator REED of Rhode Island and Senator SESSIONS, to put new safeguards in place to prevent creditors using any power they have to file bad faith motions as a tactic to force a debtor to

give up his or her rights. That should not be allowed. The Reed Sessions amendment corrects that. The projections in the Reed Sessions amendment were also developed in close consultation with the White House.

Our bill further provides that if a motion to dismiss is filed and the judge dismisses it, the judge can assess penalties against a creditor who filed the motion if the motion wasn't substantially justified. So we want to make sure that creditors who would abuse some of their power in court would not—if it was not substantially justified, if their position was not substantially justified, then action should be taken against them, and that is entirely fair as well. So we have a fair system with tough penalties for creditor abuses.

Now, the amendment of Senator from New York will return to the system we have today. Under current law, creditors can't file motions when a chapter 7 case is abusive or improper. And every observer acknowledges that the current system doesn't work at all in terms of catching abuse; hence, a major part of this bill is to correct this situation.

We went to great length in our committee report on this bankruptcy bill to discuss this point in very much detail. So this amendment should be defeated because it prevents the provisions prohibiting bad faith bankruptcy from being enforced. That is like saying to deadbeats it is not OK to file for bankruptcy in bad faith, but we are not going to do anything about it if you do. And, of course, that is exactly the wrong signal we want to send. We want to make sure that people who go into bankruptcy are people who have a legitimate reason for being there and that they aren't taking advantage of bankruptcy to somehow help themselves, and in bad faith is part of that process.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator from Iowa has 5 minutes remaining, and the Senator from New York used all the time allowed.

Mr. GRASSLEY. I yield the remainder of my time.

Mr. SCHUMER. Mr. President, may I ask unanimous consent for 1 minute to respond?

Mr. GRASSLEY. Then I will reserve my time, if I may.

The PRESIDING OFFICER. The Senator from Iowa reserves his time.

Does the Senator object to the unanimous-consent request?

Mr. GRASSLEY. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHUMER. I thank my colleague. I wish to answer.

The bill's provisions purporting to prevent and ameliorate coercive creditor litigation tactics will not be able to undo the damage done by giving creditors the right to bring 707(b) ''totality of the circumstances'' and ''bad faith'' motions against low- and moderate-income debtors.

Section 102 of the bill says a court may award a debtor costs and attorney's fees if a court rules against the creditor's 707(b) motion and that motion was not ''substantially justified.'' This provision will not deter coercive creditor litigation tactics. It doesn't cover coercive threats to bring 707(b) motions, which are often sufficient to force a debtor to give up his or her bankruptcy rights.

Finally, this sanctions provision contains an exception which precludes any award against a creditor that holds a claim of under $1,000, no matter how wealthy the creditor is.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, the issue that the Senator from New York just brought up of threats being used is exactly what the Reed-Sessions amendment deals with. I suggest this was also very much a point that was raised by people at the White House that we have been discussing—the whole issue of bankruptcy over a long period of time.

This was also worked out because this was a major concern. They did not want this abuse. They did not want the issue of threats. We agree with them, as we had to work it out with Senators SESSIONS and REED because the bill, as they saw it, was not adequate enough in this area.

As people vote on this amendment, I hope they will consider that we have been trying to respond in a very legitimate and strong way against the use of threats.

Mr. SCHUMER. Will the Senator yield for a question?

Mr. GRASSLEY. The answer is yes.

Mr. SCHUMER. I thank the Senator for his careful deliberation and his yielding.

It is my understanding that section 203 of the bill deemed it a violation of the automatic stay for a creditor to engage in any communication other than a recitation of the creditor's rights, and this would deal with threat. This provision would be stricken from the bill by the Reed-Sessions amendment. So the Reed-Sessions amendment didn't deal with the problem, but it actually took out the basic protection that a low-income debtor would have against threat.

Is that not correct?

Mr. GRASSLEY. If you threaten somebody during reaffirmation, the Sessions-Reed amendment is set aside.

I yield the remainder of my time.

I ask unanimous consent that the Senator from Louisiana be granted 5 minutes to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. LANDRIEU. I thank the Senator.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 5 minutes.

INTERIOR BILL NEGOTIATIONS

Ms. LANDRIEU. Thank you, Mr. President.

I know the underlying amendment we have just debated is quite important, and the bankruptcy bill we are debating is one of the things we have to reconcile in order to wrap up our business and do the work for the American people. But I come to the floor just for a few moments this afternoon to speak on another subject because I would like to do my part to help us bring this session to a positive close.

I was one of the Senators who placed a hold on some of the business before the Senate. I felt compelled to do so because of some actions the administration was taking in the negotiations process on the Interior bill. I believe I had to try to stop, or reverse, or change it. With other things that have taken place, I believe we have been somewhat successful. I want to speak about that for a moment.

As you are aware, Mr. President, about 2 years ago a great coalition of people came together from different perspectives in this country—different parties, different areas of this Nation—to begin to speak about the great need in America and the great desire on the part of the American people, from Louisiana, California, New York, and all places in between, to try to find a permanent way to fund very important environmental projects—the purchase of land, the expansion of parks, the creation of green space, the preservation of green space, the restoration of wetlands, the commitment to historic preservation, the expansion of our urban parks, the ability of all families, not just families who can afford to fly in jets or take long automobile vacations, but for families who live in the U.S., to be able to enjoy the beauty of nature; for us as a Nation as we move into this next century to take this opportunity to try to find a permanent way to fund some of these programs so they won't be subject to the whims and wishes of Washington, something that is fiscally conservative in terms of our balanced budget.

We tried to look for funding that would be appropriate to dedicate in this way. We found a source of funding. That is where the funding is—offshore oil and gas revenues that were the subject of an earlier debate today. As the prices go up, it helps some parts of our Nation; it is a challenge for other parts. But it brings more tax revenues into the Federal coffers.

For 50 years, we have been drilling off the shores of Louisiana, Texas, Mississippi, and the gulf coast. We have brought over $120 billion to the Federal Treasury by depleting one important resource for our Nation. That money has gone to the general fund. It has been spent on a variety of projects—not reinvested but just spent in operating budgets.

Many of us think a more fiscally conservative approach, and a more sound and responsible approach, would be to

take a portion of those revenues produced by basically the gulf coast States and reinvest a portion, if you will, or share a portion of those revenues, with States and counties and parishes, as in Louisiana and communities around the Nation, to help in all the ways I have just expressed in all of our land acquisition, land improvements, expansion of our parks, and wildlife conservation programs.

Two years ago, a great coalition came together. On one side, we had the National Chamber of Commerce; on the other side, we had a variety of environmental groups; we had elected officials, both at the Federal level and State level. As I said, it was a bipartisan coalition that came together to back a bill, which was introduced on the House side and in the Senate, known as CARA, the Conservation and Reinvestment Act, to do just that.

This bill has picked up tremendous support in the last 2 years. It is pending before our Senate Energy Committee with Senator MURKOWSKI and me as the lead sponsors, with many Members of this body. The great news is that just last week in the House, under the great leadership of DON YOUNG from Alaska and GEORGE MILLER from California, the ranking member, this bill passed out very similar to ours on a 37–12 vote to try to help bring us to a bipartisan consensus.

I am hopeful, as we wrap up this session and as we begin to get ready for the next session of Congress, that we are now in a very good position to be able to take some final actions in moving that bill through committee, onto the floor, and into a conference where the final details can be worked out because if we are going to have any permanency of funding from this source, it is going to have to be something that is shared with the States that produce the money in the first place.

Louisiana produces about 70 percent of our offshore oil and gas revenues. We have great needs as a coastal State, along with States such as New York that just got hit very hard by Hurricane Floyd, causing tremendous damage. There are great coastal needs in our States to fully fund the land and water conservation and wildlife conservation programs.

I am very hopeful as we position ourselves for next year, that we are in a position to grab this opportunity supported by this grand coalition and do something very positive for America's environment.

I am pleased to say I will be prepared to release my hold on the foreign operations bill in an attempt to do my part to move to reconciliation because we have effectively stopped the administration's efforts to permanently allocate funding but in a way that will not cover all of the things as I outlined. We want to make sure this investment in the Nation is not just about Federal land acquisition, although that is a very important piece of this. We want to make sure it is balanced, with the opportunity for Governors and local officials to purchase land at the local level. We want to make sure it is truly a partnership. We want to make sure the coastal impact assistance is there as well as funding for historical preservation, urban parks, and wildlife programs.

While we didn't reach every goal we set out, we have raised this issue. We have built a strong coalition. We have raised this issue and we have stopped the permanent allocation of these funds until the whole package can be dealt with. We have made a very positive step.

On behalf of the great coalition, I ask unanimous consent to have printed in the RECORD a letter to the President, signed by 14 Senators, along with a letter to Members of Congress from 865 organizations, business and government agencies, that are funding this effort.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, November 15, 1999.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: With your leadership we have a historic opportunity to pass legislation in this Congress that will permanently reinvest a portion of offshore oil and gas revenues in coastal conservation and impact assistance programs, the Land and Water Conservation Fund, wildlife conservation, historic treasures and outdoor recreation. Recently, forty of the nation's governors sent a letter to Congress encouraging us to seize this historic opportunity. This effort has been endorsed by almost every environmental organization in the country as well as a broad array of business interests including the United States Chamber of Commerce.

There is strong bi-partisan support *now* for a proposal that: will provide a fair share of funding to all coastal states, including producing states; is free of harmful environmental impacts to coastal and ocean resources; does not unduly hinder land acquisition but acknowledges Congress' role in making these decisions and reflects a true partnership among federal, state and local governments.

There is also strong support for using these OCS revenues to reinvest in the renewable resource of wildlife conservation through the currently authorized Pittman-Robertson program. This new influx of funding will nearly double the Federal funds available for wildlife conservation and education programs. We would like to ensure that wildlife programs are kept among the priorities when negotiating for monies from OCS revenues.

A historic conservation initiative is within our grasp. With budget negotiations currently underway, we urge you to push forward for a compromise which reflects the points outlined above. It will be an accomplishment we can all celebrate and a real legacy for future generations.

Sincerely,

Mary L. Landrieu, Max Cleland, Blanche L. Lincoln, Evan Bayh, John F. Kerry, Tim Johnson, Charles Robb, John Breaux, Robert J. Kerrey, Barbara A. Mikulski, Ron Wyden, Herb Kohl, Ernest F. Hollings, Judd Gregg.

NOVEMBER 1, 1999.

U.S. CONGRESS,
Washington, DC.

DEAR MEMBER OF CONGRESS: As the twentieth century draws to a close, Congress has a rare opportunity to pass landmark legislation that would establish a permanent and significant source of conservation funding. A number of promising legislative proposals would take revenues from non-renewable offshore oil and gas resources and reinvest them in the protection of renewable resources such as our wildlife, public lands, coasts, oceans, historic and cultural treasures, and recreation. Securing this funding would allow us to build upon the pioneering conservation tradition that Teddy Roosevelt initiated at the beginning of the century.

The vast majority of Americans recognize the duty we have to protect and conserve our rich cultural and natural legacies for future generations. A diverse array of interest, including sportsmen and women, conservationists, historic preservationists, park and recreation enthusiasts, urban advocates, the faith community, business interests, state and local governments, and others, support conservation funding legislation because they recognize it is essential to fulfill this obligation.

We call upon you and your colleagues to seize this unprecedented opportunity. Pass legislation that would make a substantial and reliable investment in the conservation of our nation's wildlife; public lands; coastal and marine resources; historic and cultural treasures; state, local and urban parks and recreation programs; and open space. Design a bill that provides significant conservation benefits, is free of harmful environmental impacts to our coastal and ocean resources, and does not unduly hinder land acquisition programs.

An historic conservation funding bill is within our grasp. It will be an accomplishment that all can celebrate. We look to Congress to make this legislation a reality.

Sincerely,

Ms. LANDRIEU. I will read one paragraph from this petition. Let us grab the opportunity now, to:

Pass legislation that would make a substantial and reliable investment in the conservation of our Nation's wildlife; public lands; coastal and marine resources; historic and cultural treasures; State, local and urban parks, and recreation programs; and open spaces. [Let us] design a bill that provides significant conservation benefits, is free of harmful environmental impacts to our coastal and ocean resources and does not unduly hinder land acquisition programs.

I believe we can meet these goals as we negotiate the detail and compromise in the next session.

The Presiding Officer, being from the State of Alabama, has been a great leader in this effort. I look forward to working with the Senator next year. I am pleased to tell our leader I will be removing my hold on foreign ops because we have made some progress on this, and I look forward to working harder to make this a reality for the people of America the next time we meet.

I yield my remaining time.

Mr. REID. Before the Senator from Louisiana leaves the floor, I want to express to her the appreciation of the entire minority caucus. There is no Member of the Senate who is more astute, works harder, and has a better understanding of the issues that face the Senate, which was well demonstrated by her work on this issue about which she feels fervently. We are grateful at this late date the Senator

has been willing to work with members to release the hold.

BANKRUPTCY REFORM ACT OF 1999—CONTINUED

Mr. KENNEDY. Mr. President, I understand we are back on the bankruptcy legislation; is that correct?

The PRESIDING OFFICER (Mr. SESSIONS). The Schumer amendment has not been disposed of.

Mr. KENNEDY. With the understanding of the Senator from New York, I ask unanimous consent we temporarily lay aside that amendment.

Mr. GRASSLEY. Reserving the right to object, and I will not object, I previously talked to the Senator from Massachusetts about time agreement on his amendment. I prefer to forego a time agreement and have him proceed accordingly. I have no objection.

The PRESIDING OFFICER. Without objection, the Senator from Massachusetts is recognized.

AMENDMENT NO. 2652

(Purpose: To amend the definition of current monthly income to exclude social security benefits)

Mr. KENNEDY. I call up amendment numbered 2652.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 2652.

Mr. KENNEDY. Mr. President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 2, insert before the first semicolon ", but excludes benefits received under the Social Security Act".

Mr. KENNEDY. Mr. President, this is a rather simple amendment. The amendment I have offered will protect a debtor's Social Security benefits during bankruptcy. This amendment is very important to older Americans. I hope my colleagues will support it as our House colleagues supported it last year.

As currently written, the means test in the pending bill will require debtors to use their Social Security benefits to repay creditors. My amendment excludes Social Security benefits from the definition of ''current monthly income'' and ensures that those benefits will never be used to repay credit card debt and other debt.

This amendment is particularly important to seniors. Between 1991 and 1999 the numbers of people over 65 who filed bankruptcy grew by 120 percent. If we look over the figures from 1991 to 1999 by age of petitioner, we see the growth of those that are going through bankruptcy primarily have increased in the older citizen age group. This is primarily a result of the downsizing, dismissing older workers and because of health care costs—primarily they have been dropped from health insurance. As the various statistics show, increasing numbers of individuals have been impacted because of the prescription drugs.

Debtors filing a medical reason for bankruptcy, as the chart shows, reflects the fact we have gotten a significant increase in the number of older people who have gone into bankruptcy. The debtors who file as medical reasons for bankruptcy, we find, increases dramatically for older workers primarily because of health care costs more than any other factor.

We believe very strongly those individuals, most of whom are dependent upon Social Security as virtually their only income ought to have those funds protected so they will be able to live in peace with some degree of security and some degree of dignity.

This is sufficiently important. One can ask, why are we doing this now rather than before? The reason it was not necessary before is because the Social Security effectively was protected with a series of protections that were included in the existing bankruptcy law which have not been included in this legislation. Therefore, without this kind of an amendment, they would be eligible for creditors. We think protecting our senior citizens, those on Social Security, as a matter of both public policy and the fact of the importance of their contributions, obviously, in terms of society, should be protected during their senior years.

Today, many Americans work long and hard into the senior years. A growing percentage of the population is over the age of 85 and predominantly female. We see over the period of the next 10 years our elderly population will double and the increase in the percentage of women is going to increase significantly, as well. Others may be able to find alternative employment but at substantially lower wages or without health and other benefits that become increasingly important with age.

In spite of all of the efforts to slow down the discrimination against elderly, in too many circumstances in our country today, the elderly are discriminated against in terms of employment.

Older Americans sometimes resort to short-term, high-interest credit when faced with unemployment because they assume their unemployment will be temporary. They hope their use of credit or credit card debt will serve as a bridge to cover the necessities until they start receiving paychecks again. Due to their age, however, many of these individuals never earn a salary comparable to the pay they lost. They find themselves unable to deal with the new debt they have incurred. When they have nowhere else to turn, they sometimes turn to the safety value of bankruptcy.

Older Americans are also more frequent victims of predatory lending practices. Sometimes, bankruptcy is the most viable avenue for an elderly person to address the financial consequences of being victimized by unscrupulous lenders. It is unfortunate that Senator DURBIN's amendment to address that problem was defeated last week.

Studies of the problems facing older Americans tell us the same sad story. In one study, one in ten older Americans reported that they filed for bankruptcy after unsuccessfully attempting to negotiate with their creditors. In some cases, their creditors threatened them with seizure of property, or placed harassing collection calls. Some of these senior citizens explained that they have been the victims of credit scams, and they were seeking relief in the bankruptcy courts.

For example, a 70-year-old woman filed for bankruptcy after her son discovered that she has allowed herself to become involved in a number of dubious financial transactions, including buying more than six different expensive and duplicative life insurance policies and spending several thousand dollars on sweepstakes contests. At the time of her bankruptcy, she had mortgaged her previously mortgage-free home for more than $74,000 to try and pay off her debts. She was in danger of losing the home she shared with her husband who was in failing health.

The bottom line is that bankruptcy shouldn't be made more difficult for those who are depending on Social Security for their livelihood.

Social Security was developed to ensure that seniors can live their golden years in dignity. If we allow Social Security income to be considered while determining whether someone is eligible for bankruptcy, a portion of those benefits could be used in a manner inconsistent with Congress' intent.

Some of my colleagues oppose this amendment because they argue that wealthy seniors would be the beneficiaries. But, practically speaking, wealthy debtors rarely use Chapter 7—they've more likely to file under Chapter 11 of the bankruptcy code.

For very high income individuals, like Ross Perot, social security represents a very small percentage of their total income. Indeed, the maximum social security retirement benefit for a new 65-year-old retiree in 1997 was $16,000. For the Ross Perot in this country, $16,000 is a rounding error. His income is so high that including or excluding $6,000 changes his income by only a tiny percentage. But for the poor widow who gets 90 percent of her income from social security it makes a big difference.

Rich debtors who file in Chapter 7 would be caught by the means test, whether or not the courts include Social Security income as part of the debtor's ''current monthly income.''

It is important to realize that even though we do tax individuals on higher Social Security, 75 percent of our seniors pay no tax on Social Security because they are below $25,000 in income.

this is the group about which we are talking.

For two-thirds of American seniors, Social Security income represents more than 50 percent of the their total income, and for 42 percent of seniors, it represents three-quarters of their total income. That is basically what we are talking about. We will hear: We can't accept this because it will create some loophole for our seniors.

We have to realize that for 42 percent of all seniors, Social Security represents three-quarters of their total income. Furthermore, 95 percent of all workers never reach the maximum Social Security benefit. That means only 5 percent of workers earn more than $72,000, and the average person is well below that income level. The myth of the wealthy senior using this amendment to avoid their obligations is just that—it is a myth.

The purpose of Social Security is to guarantee there is a financial foundation provided for all senior citizens to ensure their basic needs—food, shelter, clothing, and medicines—are met. For two-thirds of senior citizens, Social Security provides more than half of their income, and Social Security benefits are hardly enough, in many cases, to meet these basic needs of seniors. Certainly, they cannot survive on less.

If we are serious about providing financial security and personal dignity for the elderly, we must protect their Social Security benefits from claims in bankruptcy. Otherwise, we run the risk of vulnerable senior citizens being left with virtually nothing. In many cases, these are the people who are not healthy enough to return to work, who certainly lack the physical stamina to work the extra hours or get a second job. Social Security benefits are all they have—all they ever will have—and these few dollars are essential to their financial survival. There is a higher concern here than recovering every last dollar for creditors. It is guaranteeing the elderly some measure of financial security in their declining years.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I appreciate very much the amendment offered by the Senator from Massachusetts. Also, for the benefit of everyone in the Chamber and within the sound of my voice, on this bill we have moved along significantly from 300-plus amendments down to fewer than 10 amendments.

I hope we can continue working on this bill. I do not see any reason why we cannot finish this legislation tonight. We have a few amendments. I have heard it being rumored that we are going out early tonight. If the majority wants a bankruptcy bill, they can have a bankruptcy bill. The minority is not holding up the bankruptcy bill. We have, as I indicated, fewer than 10 amendments. A number of those Senators have agreed to time limits.

It is a situation where, with all the work that has been done for years by the manager of the bill—not a matter of weeks but for years—the goal is in sight, and we should move forward and pass this much-needed legislation. I repeat, the problem is not with the minority. We are willing to work as late tonight as possible. We were willing to work yesterday. I hope we can move forward on these amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. 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.

Mr. DASCHLE. Mr. President, I come to the floor for a moment to commend both Senator GRASSLEY, the manager on the Republican side, and our very distinguished assistant Democratic leader. We started the consideration of this bill several days ago. As I understand it, 20 amendments were filed. We are now down to fewer than 10 amendments.

As I understand it, there is a potential time agreement on virtually every amendment. Virtually every Senator has expressed their interest in bringing this bill to a conclusion and are prepared to accept time limits.

I further understand the majority is giving some consideration now to going out early tonight after we have had a couple votes. I hope that isn't the case because I would like to see if we could finish this bill either tonight or tomorrow. There is no reason why we cannot finish it and move on to other matters. There are a number of other matters pending.

So I speak for a lot of our colleagues in expressing our gratitude to the distinguished assistant Democratic leader for his effort yet again. He has done this on so many bills, but on this bill in particular he has really done an extraordinary job of not only working to accommodate Senators but also to manage the legislation on our side, along with Senators LEAHY and TORRICELLI, and, of course, the chairman of the subcommittee, Senator GRASSLEY, for his work in working with Senators who wish to offer amendments.

I know some of these amendments have been accepted, and some of these amendments will require rollcalls. The point is, let's get the work done. Let's finish either tonight or tomorrow, but let's finish the bill.

There was a time when I feared we would not finish this legislation this year. Maybe that is the only silver lining for those of us who would like to bring this matter to closure: That we will have the opportunity to finish this legislation.

Many members still have amendments. Some of these amendments that are yet to be offered may tell the story with regard to Democratic support. There are some good amendments that are still pending. Senator KENNEDY has a very good amendment that needs to be addressed. I hope we can do that and move on the other Democratic amendments that I know Senator SCHUMER and others have indicated they are prepared to offer.

So we are getting down now to the final few amendments. I hope we will just keep the heat on, and finish up this critical legislation many of us have worked so long and so hard to enact.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. I have two unanimous consent requests.

AMENDMENT NO. 2659, AS MODIFIED

Mr. GRASSLEY. Mr. President, the first unanimous consent is on an amendment, as modified. It is amendment No. 2659. I send the modification to the desk and ask unanimous consent it be considered agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2659), as modified, was agreed to, as follows:

On page 18, line 5 insert ''(including a briefing conducted by telephone or on the Internet)'' after ''briefing''.

On page 19, line 15, strike ''petition'' and insert ''petition, except that the count, for cause, may order an additional 15 days.''

Mr. GRASSLEY. Mr. President, I ask unanimous consent that at 4:30 we proceed to two stacked votes on the pending Feinstein amendment and the Schumer amendment, and do it in that order, with 4 minutes equally divided in the usual form between the two votes, and that no amendments be in order prior to the votes. Maybe I ought to correct this. I think we should say there would be 2 minutes divided on the Feinstein amendment and then 2 minutes before we vote on the Schumer amendment—or 4.

Mr. DASCHLE. Reserving the right to object, I want to be sure. Is it amendment No. 2761? Is that the Schumer amendment referred to by the Senator from Iowa?

Mr. GRASSLEY. Amendment No. 2762.

Mr. DASCHLE. Amendment No. 2762.

Mr. GRASSLEY. So let me once again state this: I ask unanimous consent that at 4:30 we proceed to two stacked votes on the pending Feinstein amendment, with 4 minutes equally divided to discuss the Feinstein amendment, and then at the end of that vote have 4 minutes equally divided to discuss the Schumer amendment, and then immediately proceed to a vote on or in relation to the Schumer amendment, and that no amendments be in order prior to the votes.

Mr. REID. Reserving the right to object, could I ask the manager of the bill about why we can't vote on amendment No. 2761, also a Schumer amendment?

Mr. GRASSLEY. Which amendment is that?

Mr. REID. The Schumer-Santorum amendment.

Mr. GRASSLEY. We have an objection from the Banking Committee on that one at this point. And also, for the benefit of Senator KENNEDY, who has been very patient, I have one Senator I have to consult before we go to a final decision on that amendment. But I think we can take care of this when we are over here voting, if you would let us proceed to these. And then I will work with you to get to the bottom of that at the time of that vote. Is that OK?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. GRASSLEY. 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.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, to sum up my amendment, what this bankruptcy bill is all about is encouraging debtor responsibility—in other words, to the extent that an individual possibly can, they should repay their debt. That is one side of it.

I think to the extent the credit industry can be responsible, you need to have a balance between the two. Right now, there is not a balance between the two. I think we all know of people who have a number of credit cards who do not have the income even to pay back the minimum debt or the minimum monthly payment plus interest over a period of time.

Let me give an example. If you have a $1,500 debt and your minimum monthly payment is $25 and you have no late fees, no new purchases, at 19.8-percent interest, it takes 282 months to pay that debt off. I know people in this situation who shouldn't have credit cards, who should have been checked out, who have six, who are going into bankruptcy because they didn't understand this simple concept.

What the amendment before you would do is ask the Federal Reserve to do a study of lending practices in this area and make public their findings, and also have the ability to set new regulations if they believe those regulations are warranted.

This amendment was passed a year ago by a voice vote. It was removed in conference. The amendment would be accepted. My concern is that it would again be deleted in conference. Therefore, I have asked for the yeas and nays. I am hopeful this Senate will go on record as supporting this study by the Federal Reserve.

I thank the Chair and yield the floor.

Mr. GRASSLEY. Mr. President, I yield back the remainder of the time we have on this side.

The PRESIDING OFFICER. All time is yielded back.

The question is on agreeing to amendment No. 2756. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FITZGERALD (when his name was called). Present.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 82, nays 16, as follows:

[Rollcall Vote No. 368 Leg.]

YEAS—82

Abraham	Feingold	McConnell
Akaka	Feinstein	Mikulski
Baucus	Frist	Moynihan
Bayh	Gorton	Murkowski
Bennett	Graham	Murray
Biden	Grams	Nickles
Bingaman	Grassley	Reed
Bond	Gregg	Reid
Boxer	Harkin	Robb
Breaux	Hatch	Roberts
Bryan	Helms	Rockefeller
Burns	Hollings	Roth
Byrd	Hutchison	Santorum
Campbell	Inouye	Sarbanes
Chafee, L.	Jeffords	Schumer
Cleland	Johnson	Sessions
Cochran	Kennedy	Shelby
Collins	Kerrey	Smith (OR)
Conrad	Kerry	Snowe
Craig	Kohl	Stevens
Crapo	Kyl	Thurmond
Daschle	Landrieu	Torricelli
DeWine	Lautenberg	Voinovich
Dodd	Leahy	Warner
Domenici	Levin	Wellstone
Dorgan	Lieberman	Wyden
Durbin	Lincoln	
Edwards	Lugar	

NAYS—16

Allard	Gramm	Smith (NH)
Ashcroft	Hagel	Specter
Brownback	Hutchinson	Thomas
Bunning	Inhofe	Thompson
Coverdell	Lott	
Enzi	Mack	

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—1

McCain

The amendment (No. 2756) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, 4 minutes are now evenly divided on the Schumer amendment No. 2716.

Mr. GRASSLEY. I suggest the absence of a quorum because we can work something out and maybe avoid a vote.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. 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. 2652

Mr. GRASSLEY. I wish to make it clear, what I am going to ask unanimous consent on now is unrelated to what we are trying to work out on the Schumer amendment.

Mr. President, the managers have agreed to accept Senator KENNEDY's amendment, so I ask unanimous consent that amendment No. 2652 be accepted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2652) was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Mr. GRASSLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRASSLEY. 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. GRASSLEY. Mr. President, I ask unanimous consent that we proceed, then, to 2 minutes of debate on that side, 2 minutes on this side, and then we go to a vote.

The PRESIDING OFFICER. That is the regular order. Who yields time?

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the yeas and nays be vitiated on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. 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. GRASSLEY. 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. GRASSLEY. Mr. President, there will be no more rollcalls today. We hope to continue debating some amendments, and they will be stacked to be taken at a time determined by the leader tomorrow.

Mr. LEAHY. Mr. President, again, I reiterate what I said before: The Senator from Iowa and I, the Senator from New Jersey, Mr. TORRICELLI, and Senator HATCH have all been working very hard. We have gone from 300 some odd amendments down to only a half dozen or so remaining. I will continue to work with my friend from Iowa to try to clear whatever we can.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that any votes ordered today be stacked for a time to be determined by the leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I know my good friend from Alabama is here

as manager on his side. I know we have no further rollcalls on this. I see my friend from Wisconsin on the floor. I am wondering if we can get some of the debate out of the way, and I wonder if we might yield to the Senator from Wisconsin and let him begin debate on his amendment.

Mr. REID. Will the Senator yield for a question?

Mr. LEAHY. Yes.

Mr. REID. I say to my friend from Vermont that in looking over these amendments, which have gone from 320 to now probably 7 or 8, a handful of amendments, the Senator understands that the movement of this bankruptcy bill is not being slowed down on this side of the aisle. Our Members have been very cooperative. Would he agree to that?

Mr. LEAHY. Yes. The Senator from Nevada has cleared out an awful lot of them. I think we have cleared 300-some-odd down to half a dozen or so. We could, for example, vote tonight without further debate on the Schumer-Santorum amendment, No. 2761. We could stagger them in the morning. I came in at 10 yesterday morning to be prepared to manage the bill on this side, and, for whatever reason, we stayed in morning business until 4 in the afternoon. What I am trying to do here—and I know the Senator from Alabama is on the floor, too—if there are things we can take care of on the bill tonight, let's do it.

Mr. REID. If the Senator will yield, Senator WELLSTONE has two amendments he will offer first thing in the morning. Senator FEINGOLD has one amendment that has already been offered. He wants to debate it some more, and he said he would do that tonight. We also have Senator FEINGOLD who has one other amendment he wishes to offer at a subsequent time. We also have a Dodd amendment that, I think with the managers' bill, we have worked out, and it has been agreed to by the chairman of the Judiciary Committee and the manager. Senator SARBANES has an amendment he wishes to offer. Senator HARKIN has an amendment he said he may offer tonight. We are basically finished.

The two things that are holding this up—and we should not play around with it anymore—are an amendment by the Senator from New York dealing with clinics, on which he has agreed to a half-hour time limit, and we have the Senator from Michigan, Mr. LEVIN, who has agreed to 17 minutes on an amendment relating to gun manufacturers.

I say to my friend, in short, we have almost nothing left. So it would seem to me we should move forward as rapidly as possible and finish this bill.

Mr. SESSIONS. Mr. President, on the order, I think it would be appropriate for Senator FEINGOLD to proceed at this time. Further, I think we will proceed without unanimous consent after that. Senator GRASSLEY will be back, and we can decide what to do then.

I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. INHOFE. Mr. President, I ask unanimous consent that Paul Barger have the privilege of the floor for this day.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2748

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, I call for the regular order with respect to amendment No. 2748.

I wish to speak on the landlord-tenant amendment I offered last week and, in particular, take a few minutes to respond to some of the arguments made against it by the Senator from Alabama. This amendment is designed to lessen the harsh consequences of section 311 of the bill with respect to tenants while at the same time protecting the legitimate financial interests of landlords.

Just to review, current law provides for an automatic stay of eviction proceedings upon the filing of a bankruptcy case. Landlords may apply for relief at that stage so the eviction can proceed. But it is a process that often takes a few months.

Section 311 of Senate bill 625, the bill we are considering, eliminates the stay in all landlord-tenant cases so that an eviction can proceed immediately. In essence, my amendment would allow tenants to remain in their apartments while trying to sort out the difficult consequences of bankruptcy if, and only if, they are willing to pay the rent that comes due after they file for bankruptcy. If the tenant fails to pay the rent, the stay can be lifted 15 days after the landlord provides notice to the court that the rent has not been paid. If the reason for eviction is drug use or property damage, the stay can also be lifted after 15 days.

Finally, if the lease has actually expired by its terms—in other words, if there is no more time on the lease and the landlord plans to move into the property—then, again, after 15 days notice the eviction can proceed. This 15-day notice period does not apply if the tenant has filed for bankruptcy previously. In other words, in cases of repeat filings, the stay never takes effect, just as under section 311 in this bill.

So we are all clear on why this whole issue came up in the first place, the main abuse that has been alleged is in Los Angeles County, where unscrupulous bankruptcy petition preparers advertise filing bankruptcy as a way to live rent free. Under my amendment, first of all, you could never live rent free. The debtor must pay rent after filing for bankruptcy. If the debtor misses a rent payment, the stay will be lifted 15 days later. Second of all, the automatic stay does not take effect if the tenant is a repeat filer. So we take care of this problem of the repeat filer, which is exactly what the Senator from Alabama and others portrayed in committee as the reason this provision is needed.

So my amendment gets at the abuse, and it protects the rights and economic interests of the landlord. What it eliminates, though, is the punitive aspect of this amendment and the possibility that tenants who are willing and able to pay rent once they get a little breathing room from their other creditors will instead be put out on the street.

I am, frankly, disappointed that my colleague from Alabama insists on the harsh aspects of section 311 when my amendment would get at the problem he has identified just as well.

The Senator from Alabama argued yesterday that somehow my amendment changes current law and moves us in the direction of litigation and delay. On the contrary, my amendment leaves intact the current law that allows landlords to get relief from the automatic stay. Let me be very clear about that. My amendment does not eliminate the ability of landlords to apply for relief from the stay under current law. The law now gives debtors some breathing room in legal proceedings, including eviction proceedings. But landlords can apply for relief from the stay. It is not an abuse of the law to take advantage of the automatic stay to get your affairs in order. Some tenants use that time to work out a payment schedule for their back rent so they can avoid eviction. Most landlords don't want to throw people out on the street. They just want to be paid. My amendment requires that they be paid once bankruptcy is filed, or the eviction can proceed immediately. But even if the rent is paid while the bankruptcy case is pending, if a landlord can still seek relief from stay under the normal procedures and press forward with the eviction.

I frankly think that most landlords will be happy to let a tenant stay as long as the rent is being paid. Who knows, if the bankruptcy is successful, especially if it is a Chapter 13, the tenant may be able to pay the past due rent. That certainly is not going to happen if the tenant is evicted. But if the landlord really doesn't want the tenant to stay, the landlord can seek relief. So my amendment doesn't allow a tenant to stay in the apartment indefinitely by resuming payment of rent. By no means does this amendment permit a tenant to stay in an apartment indefinitely without a lease.

And any suggestion to the contrary is just wrong. It doesn't do that at all. It just covers the few months after the bankruptcy petition is filed when the debtor is most vulnerable and the debtor is most in need of a roof over his or her head.

Now let me address one of the frequent refrains of the Senator from Alabama when he talks about this provision. He seems to be very offended by the idea that people are staying in

their apartments after the term of their lease has expired. Those who are familiar with landlord-tenant law know that this is commonplace in the rental market. Many, many leases are for a term of one year but convert to a month to month lease when the year is up. The contract essentially remains in force, but the term has expired. There is nothing wrong with that. It is perfectly legitimate. Typically, the conversion to month-to-month tenancy is provided for in standard lease language.

This is not an abuse. It is the way many leases proceed in this country on a day-to-day basis.

Furthermore, the language of section 311 doesn't lift the stay when the term of a lease has expired but rather in cases where ''a rental agreement has terminated under the lease agreement or applicable state law.'' Well, most rental agreements ''terminate'' when a rent payment is missed. So section 311 applies in all landlord-tenant cases, not just those where the lease term has expired.

I want to remind my colleagues that both the bill we passed last year, and the conference report had a form of the protection that my amendment provides for debtors. Section 311 of the bill that we are working on now is harsher on tenant debtor than the conference report from last year and than the House bill that passed earlier this year.

Now let me respond to what I think is the core of Senator SESSIONS' objection to my amendment. He said last week that the automatic stay is always lifted, that the tenant never wins. So why not just get rid of the stay. It's just a waste of time and money for the landlord.

Mr. President, I have a letter here from a debtor's attorney named Henry Sommer. Mr. Sommer is an expert in consumer bankruptcy cases. He is the author of the widely used treatise Consumer Bankruptcy Law and Practice, which is published by the National Consumer Law Center. He indicates in his letter that has represented thousands of low-income consumer debtors over the past 25 years. I ask unanimous consent that Mr. Sommer's letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. FEINGOLD. Mr. President, Mr. Sommers heard the remarks of the Senator from Alabama last week in opposition to my amendment. He writes:

The statement was made that landlords always prevail in automatic stay motions. This is not correct. In my personal experience, I doubt that landlords have prevailed in even 20% of the cases. in most of the other cases, the family paid the rent and the motion was either withdrawn or denied.

Mr. Sommers goes on to state:

The more important point is that in most cases no motion is brought by the landlord. The automatic say does what it is intended to do. In these cases, the family that was facing eviction cures the rent arrears and remains in its apartment. The landlord is made whole, and the family is permitted the time necessary to reorganize its finances.

Mr. Sommers also discusses my amendment.

To the extent there are abuses in the current system, your amendment will provide prompt and efficient relief by giving landlords a streamlined procedure that could be pursued quickly and without an attorney.

That's a crucial point, Mr. President, because one of the concerns expressed by the Senator from Alabama is the expense and inconvenience of the relief from stay process for landlords under current law. Mr. Sommers concludes:

Your amendment would make it impossible to obtain significant delay simply by filing a bankruptcy petition, as can occur today. But it would not hurt the innocent family, struggling to get its finances together, that is able to begin making rent payments and cure its rent default.

That is really the crucial point Mr. President. We are talking about real people here. People who are very vulnerable. The Senator from Alabama argued yesterday that a landlord may have another tenant lined up to move into an apartment. And he said that if my amendment were adopted, and I'm quoting here, ''that tenant's life may be disrupted if the landlord can't deliver the premises.'' Well, Mr. President, what about the life of the current tenant, very possibly a single mother with children? For months she's been trying to make ends meet, but the child support she is owned by her ex-husband has not been coming. She misses a few rent payments as she tries to make sure her children are fed and their home is heated. The landlord starts eviction proceedings. And she is forced to file for bankruptcy.

Now once the bankruptcy is filed, and her other creditors are temporarily at bay, she can pay her rent. On time and in full. What about disruption to her life if we put her and her children out on the street? Do we not care about that? If the landlord is not economically harmed, why wouldn't we allow her to stay in her apartment for a few months more? Why can't we maintain the breathing room that the automatic stay under current law provides? What is so terrible about that?

Mr. President, this is the situation I am concerned about. I want to respond in a reasonable way to the abuses that section 311 is supposedly designed to address. But I don't want to cause undue hardship to people who are able to pay their rent while their bankruptcy case is pending.

In the spirit of compromise, I have proposed a few other changes to the amendment to the Senator from Alabama, in response to some of the concerns he and his staff have raised. We are trying to listen very carefully to the points that the Senator from Alabama is making. First, I am willing to have the stay lifted not only in cases where the lease has expired and the landlord wants to move into the property, but also in cases where the landlord wants to let a member of his or her immediate family to occupy the premises. I will expand the language in my amendment to cover that situation.

I will also expand the language to cover a situation where the lease has expired and the landlord has entered into a signed and enforceable agreement with another tenant before the bankruptcy petition is filed. That is the situation that the Senator from Alabama has suggested creates an unbearable hardship for the new tenant. So if a new lease has been made before the debtor files for bankruptcy, the landlord can apply for expedited relief from the stay.

Finally, Mr. President, it has been suggested that some debtors will try to game the system by filing for bankruptcy the day after a rent payment is due, thus giving themselves almost a free month in the apartment before my amendment would apply. I am willing to try to stop this kind of abuse by requiring debtors to pay any rent that comes due up to 10 days before the filing of the petition.

Mr. President, I am trying to be reasonable. I am going to make these changes in a second degree amendment and I hope the Senator from Alabama will accept the amendment. I want my colleagues to understand that this amendment is designed to address the abuses that the Senator from Alabama has identified, but do it in a much more reasonable way, so that we can protect some very vulnerable people from being thrown out on the streets at a very difficult time in their lives.

AMENDMENT NO. 2779 TO AMENDMENT NO. 2748

Mr. FEINGOLD. Mr. President, I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative assistant read as follows:

The Senator from Wisconsin (Mr. FEINGOLD) proposes an amendment numbered 2779 to amendment No. 2748.

Mr. FEINGOLD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 5, strike all after ''(23)'' and insert the following:

under subsection (a)(3), of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property—

''(A) on which the debtor resides as a tenant under a rental agreement; and

''(B) with respect to which—

''(i) the debtor fails to make a rent payment that initially becomes due under the rental agreement or applicable State law after the date of filing of the petition or within the 10 days prior to the filing of the petition, if the lessor files with the court a certification that the debtor has not made a payment for rent and serves a copy of the certification to the debtor; or

''(ii) the debtor's lease has expired according to its terms and (a) the lessor or a member of the lessor's immediate family intends to personally occupy that property, or (b)

the lessor has entered into an enforceable lease agreement with another tenant prior to the filing of the petition, if the lessor files with the court a certification of such facts and serves a copy of the certification to the debtor;

''(24) under subsection (a)(3), of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property, if during the 1-year period preceding the filing of the petition, the debtor—

''(A) commenced another case under this title; and

''(B) failed to make a rent payment that initially became due under an applicable rental agreement or State law after the date of filing of the petition for that other case; or

''(25) under subsection (a)(3), of an eviction action based on endangerment of property or the use of an illegal drug, if the lessor files with the court a certification that the debtor has endangered property or used an illegal drug and serves a copy of the certification to the debtor.''; and

(4) by adding at the end of the flush material at the end of the subsection the following: ''With respect to the applicability of paragraph (23) or (25) to a debtor with respect to the commencement or continuation of a proceeding described in that paragraph, the exception to the automatic stay shall become effective on the 15th day after the lessor meets the filing and notification requirements under that paragraph, unless the debtor takes such action as may be necessary to address the subject of the certification or the court orders that the exception to the automatic stay shall not become effective or provides for a later date of applicability.''.

Mr. FEINGOLD. Mr. President, this second-degree amendment incorporates the modifications I just described. I hope it will be acceptable to the managers of the bill. I have actually shared these ideas and changes with the managers and with the Senator from Alabama.

If not, I urge my colleagues to support it.

I yield the floor.

Exhibit I

LAW OFFICES,
MILLER, FRANK & MILLER,
Philadelphia, PA, November 10, 1999.

Senator RUSS FEINGOLD,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR FEINGOLD: I listened to some of the debate concerning your amendment that would moderate some of the landlord-tenant provisions of S. 625. I am writing to let you know that some of the statements made in opposition to your amendment are not in my experience accurate. (I have represented thousands of low-income consumer debtors over the last 25 years and also spend time educating and consulting with other bankruptcy lawyers around the country.)

The statement was made that landlords always prevail in automatic stay motions. This is not correct. In my personal experience, I doubt that landlords have prevailed in even 20% of the cases. In most of the other cases, the family paid the rent due and the motion was either withdrawn or denied.

Overall, more than 20% of landlord stay motions probably are granted, because no one denies that in a few cities there have been widespread abuses (spurred by non-attorney petition preparers, not by attorneys) and when landlords have gone to court they have prevailed in almost all such cases. However, even in these places the problem was being solved even without legislation. I noticed that the figures given for Los Angeles county (where the abuses were worst) were from 1996. It is my understanding that changes in state law and in bankruptcy court procedures have significantly reduced the abuses since then.

The more important point is that in most cases, no motion is brought by the landlord. The automatic stay does what it was intended to do. In these cases, the family that was facing eviction cures the rent arrears and remains in its apartment. The landlord is made whole, and the family is permitted the time necessary to reorganize its finances. Thus, even if it is true that in most cases where landlords seek relief from the stay, such relief is granted (no data is actually kept on the results of such motions), in the large majority of bankruptcy cases tenants catch up on their rent arrears, the landlord is satisfied, no motion for relief from the stay is brought, and the family remains in its home.

To the extent there are abuses in the current system, your amendment will provide prompt and efficient relief by giving landlords a streamlined procedure that could be pursued quickly and without an attorney. Your amendment would make it impossible to obtain any significant delay simply by filing a bankruptcy petition, as can occur today. But it would not hurt the innocent family, struggling to get its finances together, that is able to begin making rent payments and cure its rent default.

Please contact me if you need further information about tenants in bankruptcy.

Very truly yours,

HENRY J. SOMMER.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

Mr. SESSIONS. Mr. President, I appreciate the work of the Senator from Wisconsin. I know he cares deeply about this issue. He has made some changes in the previous amendment that make the bill more palatable. However, it still runs afoul of common sense and efficient operation of the bankruptcy system. Furthermore, it will allow abuse of the system in a way that is unjustified and unprecedented in terms of any other creditor of a person who goes into bankruptcy.

We are asking a landlord for certain periods of time to extend free rent, when the grocer is not required to give free groceries and the gas station is not required to give free gas.

Let me make a few points about this matter. It is a subject of great abuse in the United States. That is why we are here. The bankruptcy law was last amended in any significant fashion in 1978. Since that time, we have found that a large bankruptcy bar has developed. This has been very good in many ways, but also this skilled, experienced and specialized bar has learned how to utilize the Federal bankruptcy laws to maximize benefits for their clients, as they believe it is their duty to do. In the process, they have created abuses of innocent creditors and landlords, among others.

That is not what we are about. Our responsibility, as a Congress, is not to blame the lawyers, is not to blame the tenants who take advantage of these things. The responsibility of Congress is to pass laws that are not easily abused and that end in just results.

One of the most abused sections of the bankruptcy law has been the landlord-tenant situation. First, eviction procedures are set forth in the laws of all 50 States. One cannot simply throw somebody out of their apartment. One has to file an eviction notice, go to the State court, prove the case, and eventually get the tenant out. Many believe that process is far too prolonged and far too costly. That is what the law is. In many instances, it is good because it provides tenants opportunities to get their affairs together.

With the current bankruptcy law, tenants have responded to ads in newspapers and fliers passed out in neighborhoods and throughout the communities. Those ads say: Up to 7 months free rent. Call us; we will take care of you. We guarantee you 2 to 7 months of delays in payment of your rent and guarantee you will not be evicted under those circumstances.

How can that happen? Say a person is behind in his rent and also behind in other payments, and people have filed lawsuits against him, and he or she has gone to the lawyer to ask what to do, and the lawyer files for bankruptcy. Maybe the lease the person had with the landlord has already expired. Maybe it requires him to pay his rent monthly, and it has been 4 or 5 months since the rent has been paid, and the landlord has already commenced eviction actions against the tenant. When that happens, the matter normally goes forward in State court.

Under normal State laws for removal of someone who does not pay their rent, when a bankruptcy court is involved, the eviction case is stayed; an automatic stay is issued. The landlord cannot proceed with that eviction until the stay is lifted in the bankruptcy court. Once that happens, the landlord can go back to State court and continue with his lawful eviction actions.

This has caused quite a bit of gaming of the system. For example, I will share with Members some statistics from California. The Los Angeles County Sheriffs Department estimates that 3,886 residents filed for bankruptcy in 1996 simply to prevent the execution of valid court-ordered evictions. The sheriff has the responsibility of actually evicting the tenant. The Sheriffs Department of Los Angeles said these 3,886 bankruptcy petitions represent over 7 percent of all the eviction cases handled by the department and that losses have been estimated at nearly $6 million per year in that county. Some people routinely flaunt that automatic stay provision—lawyers do—that advertises that persons may live rent free by filing bankruptcy.

One bankruptcy flier sent out said for a fee the lawyers will use more moves than Magic Johnson to prolong the eviction process.

This is not good. A judge in California has dealt with this matter over and over again, and in an opinion, this

is what Judge Zurzolo in the Central District of California had to say about the evictions and how he believes how meritless they are. This is from his written opinion:

> . . . the bankruptcy courts . . . are flooded with chapter 7 and chapter 13 cases filed solely for the purpose of delaying unlawful detainer evictions. Inevitably and swiftly following this in bankruptcy court, the filing of these cases, is the filing of a motion for relief of stay by the landlord.

After the bankruptcy is filed and the eviction notice is stopped, the landlord has to go into bankruptcy court with his lawyer and file for relief from stay and say: Look, I have not been paid rent for many months; the tenant is in violation of the lease; there is no asset of which the bankruptcy court has jurisdiction. Bankruptcy judge, allow me to proceed with my eviction.

Or the landlord will say: The lease has expired. The tenant has been here a year. In month 14, the lease expired. He did not extend the lease. I want to remove him.

This is what the judge continues to say in his opinion:

> These relief from stay motions are rarely contested and are never lost. Bankruptcy courts in our district hear dozens of these stay motions weekly, none of which involves any justiciable controversies of fact or law.

I don't know about the individual who says he represented a lot of cases and said he won some of the motions, but I don't believe they ought to be winning them under the law if the lease has expired, and that is what our amendment says. If the lease has expired, there cannot be an asset of the bankruptcy estate, and if there is no asset for the bankruptcy court to take jurisdiction over, it has no ability to issue any stay orders to protect or stop any litigation that is ongoing.

That couldn't be the case. If the lease is behind and the payments have been so far delayed that the lease has been violated and, likewise, the tenant has no property interests, there is no asset before the bankruptcy court over which the bankruptcy court has jurisdiction. The bankruptcy court essentially has jurisdiction only over the assets, to make sure when a person cannot pay his debts, all the assets are brought into the pot and the people who should receive the money from the estate get it in proper order.

We are talking about monumental abuse. This is a loophole that has been expanded over and over again. We are seeing record numbers of filings. Many people are filing bankruptcy solely for this protection.

Senator FEINGOLD's amendment, which he has worked hard to improve, is better than before, but is still unacceptable and still creates an unjust situation. For example, if a debtor owes rent and files for bankruptcy, he can wait until after his rent is due and then file it and have 15 days before his first rent payment is due. Then he could make that payment and not make any more payments and remain on this property—maybe even when the lease has expired he can stay there—and not pay the next month's rent.

This is the problem I have been talking about. He has 2, 3, 4 months now. His lawyer is advising him how to do this. His lawyer is going to advise him, first of all: Pay me. Pay your lawyer and do not pay your other debts until you have to. The debtor will do that. Then the landlord has to get a lawyer to file a certificate of failure to pay rent, and once that has been approved by the court, after a further delay of 15 days, then he has to go back to State court, now months behind schedule, and pick up again his legitimate eviction notice.

Bankruptcy court ought not be for that purpose. If the people of the United States want to provide individuals without assets a place to live, then we ought to do so. In fact, we do that. We have low-rent housing for people with low income or rent-free housing for people who cannot afford it. We have benefits for people who do not have housing. But why should an American citizen, a landlord, be required to provide to a tenant, who has violated his lease, an asset rent free that we in the U.S. Congress are not willing to fund? If it is so easy and it costs so little, why don't we pay for it? Why don't we tax American people to pay for other people's rent? We are doing that to a degree right now.

I do not believe that is a legitimate approach to the matter. It is not common sense. It is not what American law is about. When you are in a Federal court, in a bankruptcy court, or a State court, if you have a lease, that is a contract, and if you violate that lease, then you lose the benefit of the contract.

This is so basic and fundamental that I do not know how we in this Congress can think we can pass a law that makes American citizens responsible for someone to have a place to live when they are not paying for it.

We have a number of different provisions in State law that allow tenants rights to hold on and refinance and maybe keep the place in which they live. That is all right. I want to continue that. If people want to change that, go to your State court, change your eviction laws in your State, and take it to your State legislature.

Let's not make the bankruptcy law become a policy of social engineering to decide who should get special benefits and who should pay for those benefits. In effect, it is a tax. The landlord who loses this money is a person who is taxed. Indeed, we may have landlords going bankrupt if tenants do not pay rent.

Two-thirds of rental residences in America today are four units or less. That means we have an awful large number of our grandparents and brothers-in-law who may have a duplex or garage apartment and are renting them to people, and all of a sudden, somebody does not pay. They cannot get the tenants out. The landlords are not receiving any money. Two, 3 months go by, and finally the landlord files for eviction. Boom, the tenant files for bankruptcy. Then, the landlord has to hire a lawyer to go to bankruptcy court, and that is another 2, 3 extra months delay. The landlord is without rent for 2, 3 months, and they still do not have their property back.

This is an abuse of bankruptcy law, and this legislation is designed to fix it. This bill does not change substantive landlord tenant law. Rather, it is a change in that if certain circumstances exist, the landlord does not have to hire a lawyer to go to Federal bankruptcy court to get relief.

It says there is an exemption from the automatic stay if the eviction proceeding was started prior to the filing of the bankruptcy. If the landlord had already filed for eviction before the individual files for bankruptcy, the eviction process can continue as it would have normally.

In addition, the bill says the automatic stay does not apply if an eviction proceeding was based on the fact that the lease had already been terminated. It was a year's lease, and you are in month 13, 14, 15, 16 and no payments have been received and the landlord wants to lease to another tenant. It is the landlord's property. The tenant has no property rights. His lease has expired, for heaven's sake.

I say to Senator FEINGOLD, I respect his concern for these matters. States do provide protections for persons who have difficulty paying their rent.

Also, many landlords all over America try to work with their tenants. They do not want to change tenants if they are happy with a tenant. If they can help work out the tenant's payments, for previous months, that is a courtesy extended by small landlords, two-thirds of whom have four units or less. Those courtesies can turn sour in a hurry if, after months of working with a tenant, the tenant becomes further and further behind in rent. Boom, a bankruptcy petition is filed; boom, they are stayed from eviction; months go by and the landlord has to hire a lawyer and great cost is incurred. This is an abuse of the system, and I must oppose this amendment.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I am disappointed in the response of the Senator from Alabama. His comments to the effect that the only thing we should be considering is State laws having to do with leases and contracts almost suggests to me he does not believe there is any role for Federal bankruptcy law.

Bankruptcy law is contemplated in the U.S. Constitution. It certainly was not understood there would be no role at all for Federal bankruptcy law to have an impact on people's lives in our States, whether it be Alabama or Wisconsin. The automatic stay is an integral part of the federal bankruptcy

laws and its purpose is not just to protect the property of the estate but also to provide some breathing room for the debtor.

I will be the first to concede to the Senator from Alabama that one of the concerns in bankruptcy has to be making sure creditors get paid as much as possible and as efficiently as possible. That is legitimate. And a second important concern is to make sure people do not abuse the bankruptcy system.

But the concern the Senator from Alabama refuses to address, refuses to discuss, is that the bankruptcy law is supposed to help people get back on their feet. I will tell you that one lousy way to help people get back on their feet is to kick them out of their apartments, when it serves no financial interest of the landlord for that to happen.

The Senator from Alabama simply refuses to address the example I gave of a single woman with children, who is not getting her child support, who wants to and is prepared to pay her rent and is simply running into trouble and is ready to pay it again after she files for bankruptcy and has a stay against her other creditors. In the world that the Senator from Alabama portrays, this person loses out. This is deeply troubling to me.

What more can you do than listen to a colleague give hypothetical after hypothetical after hypothetical about what might be wrong with the amendment and try to specifically address those concerns? That is exactly what I have done in making the changes contained in my second degree amendment.

So, yes, efficiency in preventing abuses is an important principle. Let me review: The Senator from Alabama, both in committee and on the floor, has attempted to suggest that all kinds of abuses will still continue under the amendment that we have. The trouble is, the abuses he cites and the statistics he cites are all irrelevant to my amendment. My amendment will prevent the abuses.

He talks about the abuse of lawyers who do repeat filings, especially in Los Angeles County. We addressed that. Under our amendment, if you do multiple filings, you are out of luck; the stay is lifted automatically. Essentially, the provisions of the bill that the Senator from Alabama prefers apply in that situation.

In committee he argued against my amendment by saying: What happens if a landlord wants to move back into his own place? All right. We took care of that. We address that concern in the amendment. But then he says: What happens if his brother wants to move into the place? Well, we took care of that concern in this second degree amendment that I just offered.

Here is another example, because instead of admitting that we have actually dealt with some of these hypotheticals, he says: What happens if the landlord has a signed agreement for a new lease prior to the filing of the bankruptcy? We addressed that concern too, but that still isn't good enough.

But I tell you what frustrates me the most. The Senator from Alabama keeps saying that people will live rent free. It is as if I have said nothing here on the floor at all. It is as if I have not said, time after time after time, that under my amendment a tenant cannot live rent free for 5 or 6 months, as the Senator has suggested. After filing for bankruptcy, if you do not pay your rent as it comes due, you are out of there under my amendment.

So what is all this talk about abuses, when in each and every hypothetical the Senator has proposed in committee or on the floor we have addressed his concern? We have addressed abuse. We have addressed the fact that the system has to be efficient.

But what has not been addressed and what this amendment is trying to deal with is what the Senator from Alabama simply ignores. He gives no hope; he gives no alternative to the person that I describe: the woman with children, who is not getting her child support, who is willing and able to pay her rent once she files for bankruptcy, but the Senator from Alabama would have her booted out of her apartment with her kids at the very moment when she is trying to get back on her feet.

So I urge the Senator from Alabama to actually review all of my attempts to try to address his concerns so that I can feel at least that this has been a process where he has raised concerns that he was worried about and we tried to deal with them. That is what we have been doing in debating and modifying this amendment.

I know on other issues we have been able to do that with the Senator, and I appreciate that. But I urge him, surely there has to be a better answer than just ''tough luck'' for these individuals who I have described, who are not in a position where they are going to abuse the system, who cannot get month after month of free rent living, because that is exactly what we dealt to prevent in the amendment. We have specifically dealt with the problem of a person who tries to get more than 1 month of rent free.

The whole problem with this overall bill is sort of symbolized by this debate. There needs to be some balance. I have recognized, in that spirit, the call of the Senator from Alabama for more efficiency, the call of the Senator from Alabama for preventing abuses. But where is the balance? Where is the recognition that there are human beings with limited resources who may need the opportunity to stay in that apartment and pay the rent after the bankruptcy is filed?

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. I do thank the Senator from Wisconsin for accepting some changes because of my objections to his last amendment. As I indicated earlier, I think he did respond to a number of those. But I also think he fairly clearly made the arguments I made a few minutes ago. I made those the last time his amendment came up also; and those were not addressed. They still remain a fundamental flaw.

Mr. FEINGOLD. Will the Senator yield for a question?

Mr. SESSIONS. Yes.

Mr. FEINGOLD. What objection do you have?

Mr. SESSIONS. My concern is that there is fundamentally no legal basis for a stay in bankruptcy court of a lease that has expired or a lease that has been breached by lack of payment—since there is none, then the landlord ought not to have to hire a lawyer and go to bankruptcy court. So I continue to have that concern. But the Senator from Wisconsin has repeatedly said the tenant would be able to remain on the property, but only if they paid rent.

Let me give you a hypothetical.

On October 1, the tenant's rent is due. The tenant does not pay. On October 11, he files bankruptcy. On November 1, the rent is due; and it is not paid. On November 1, the landlord immediately files his notice in the bankruptcy court. And then 15 days are allowed to go by, presumably so the tenant could file some other complaint in bankruptcy court, some other delay or motion. And 15 days go by; and on November 16, the stay of the eviction proceedings is lifted. Then the landlord has to go back to the State court again to pursue his eviction notice, which has been stopped, which has probably fallen behind the 10,000 other cases in that State court system. And now the landlord has a hard time bringing it up.

So I would suggest to you, it is quite possible that the tenant could have 6 weeks rent free. I made the comment about ''rent free'' because I will show this advertisement right here in San Bernadino: ''7 months free rent.'' That is what is being advertised in the paper:

> No matter how far you are behind in your rent. We guarantee you can stay in your apt. or house for 2–7 months more without paying a penny!!! Find out how. We can stop the Sheriff or Marshall and get you more time.

Mr. FEINGOLD. Is the Senator aware that our amendment would prohibit what you are reading right there?

Mr. SESSIONS. It does not exactly, but it gives them at least a month and a half—if not 2 months, a month and a half.

Mr. FEINGOLD. Isn't it a fact——

Mr. SESSIONS. In addition, it still allows the abuse of forcing the landlord to go to two different courts to pursue a legitimate——

Mr. FEINGOLD. If I could follow up, under the scenario you described, isn't it true that you are talking about a maximum of 6 weeks, and not 6 months? Wouldn't you concede that?

Mr. SESSIONS. Under this scenario, it is clearly 6 weeks, if everything goes

perfectly for the landlord. It is guaranteed 6 weeks under these circumstances.

Mr. FEINGOLD. I would suggest to the Senator, you described the most egregious and extreme possibility under our amendment. And you were talking about 4 months, 5 months, 6 months. Not only is that not accurate, that is clearly not my intent.

My intent, as I have indicated time and again, is to try to make sure a person who is in this position has to pay that rent once they file for bankruptcy, and keep paying it or else they are out of luck. And the goal, just so it is clear to the Senator from Alabama, is obviously not to create that kind of scenario you described. If fact, you just made our case, that the maximum exposure there would probably be about 6 weeks, not 6 months, as you suggested.

Mr. SESSIONS. Mr. President, I believe I have the floor.

The PRESIDING OFFICER. The Senator from Alabama has the floor.

Mr. SESSIONS. Under most State eviction proceedings, a tenant who desires to stay on the property can maintain possession of that rental property 45 to 60 days. There are many rights and remedies for tenants. But at some point, the ability to stay without paying rent has to be ended. When you take that 45 to 60 days, and then file a bankruptcy petition, and then get another 6 weeks on top of that—and that is assuming everything goes smoothly, that the landlord can find a lawyer who will go to bankruptcy the first day he calls one, and who can get down there and file the proper petition or get his certificate filed. Maybe the landlord's lawyer does not understand how to file one of these certificates, and ends up billing him $250 or $300 for filing the darn thing, when, in fact, as the Senator, who is an excellent lawyer, knows, bankruptcy court has jurisdiction over property. It is the estate of the person who is filing. If there is no property, there is no estate, which is the case where the lease has expired, or the case where the lease has been breached by lack of payment. Then the bankruptcy court can't legitimately issue an order affecting that property. The bankruptcy judge can never issue an order under those circumstances. So why make somebody go to bankruptcy court to file these petitions if it will not do anything other than cost the landlord more money to delay the eviction and cost that person money?

If we in the Congress want to fund people who can't pay their rents and give them emergency funding, something like that, that is a matter to debate. I don't think we ought to tax private citizens to support individuals in this fashion when their contractual rights have been ended. We have to make sure our bankruptcy system is a good, tight, legal system and not a social service agency.

We give certain rights and benefits to debtors under bankruptcy law. We allow a person who has tremendous debts to walk in and wipe out every one of those debts. Unless their income is above the median income and they can pay back at least 25 percent of their debts, they can go in bankruptcy court and never pay anybody they owe. They do not have to pay their garage mechanic who fixed their automobile for them, not their brother-in-law who loaned their family money when they needed it, not their mother, not their credit card company, not their bank, not their doctor, not their hospital, just wipe them all out because we believe people ought not be crushed under a weight of debt.

I do not believe we would expect the gas station to give free gasoline to somebody who has filed bankruptcy. I don't believe we would expect the grocery store to give free groceries to somebody who filed bankruptcy. Neither should somebody who has violated his lease, is subject to eviction under the appropriate State law, be given free rent, even for a month and a half, perhaps more. That is what our concern is.

I understand the Senator's great passion for this circumstance, but I believe this would be a step backward. It would allow an abuse to continue which we need to eliminate. I hope the Members of this body will reject the amendment.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I appreciate the comments of the Senator from Alabama. Frankly, this isn't really about a great passion on this issue. All I am trying to achieve is some balance. I do think landlords should be paid their rent. I do think it is terrible when people abuse the system.

But in case after case where the Senator from Alabama has presented an abuse, we have tried to address it. What it all came down to, when I asked him what he still objected to, was that he fundamentally doesn't believe in the principle behind the bankruptcy system, which is giving people an opportunity to get back on their feet and providing a little breathing room in the case of the type of person I described.

I described a single woman with children who is not getting her child support, who is in danger of being booted out of that apartment. When the Senator responds, he talks about the people who game the system, people who have different debts all over the place and who can hire sophisticated attorneys. That is not who we are talking about.

In fact, I refer back to Mr. Sommer's summary of what my amendment would do. The amendment is actually perfectly tailored to the situation of the person who can't hire a lawyer or afford a lawyer. That is who we are talking about. We are talking about people who certainly are not sophisticated enough or able to game the bankruptcy system. They are not in that category at all. They are people who simply want to stay in their apartment. They have financial problems, but once they file for bankruptcy, they want to be able to start paying that rent again.

Let me read what Mr. Sommer said. He is not a person who works on bankruptcy. He is a distinguished author on bankruptcy law. He wrote to me:

> To the extent there are abuses in the current system, your amendment will provide prompt and efficient relief by giving landlords a streamlined procedure that could be pursued quickly and without an attorney.

Let me reiterate that. So much of the argument of the Senator from Alabama is premised on the idea that this is somehow a sweet deal for lawyers. What this expert says is that these provisions allow this kind of opportunity for a person who needs it without an attorney. He writes:

> Your amendment would make it impossible to obtain any significant delay simply by filing a bankruptcy petition, as can occur today.

This expert makes it very clear that this is a significant improvement over current bankruptcy law, of which the Senator from Alabama is critical. Even with my amendment, he says it is almost impossible to obtain any significant delay simply by filing a bankruptcy petition. He concedes that some of that could happen today, as the Senator from Alabama has pointed out.

Here is the last line, the critical piece that the Senator from Alabama simply won't address, when it comes to one of the purposes of Federal bankruptcy law. Mr. Sommer says:

> But it would not hurt the innocent family, struggling to get its finances together, that is able to begin making rent payments and cure its rent default.

That is all I am trying to do, to get some balance here so that an innocent family that is trying to get its act together and finances together doesn't get booted out of its apartment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, I appreciate the statements of the distinguished Senator from Wisconsin. I will offer for the record three advertisements that are not particularly unusual. One I read from earlier, how they can stop the sheriff and get you more time. Call us if you lost in court. Don't give up. Call us. We will give you more time.

In other words, if you have had your eviction proceedings that every other citizen gets, come down and file bankruptcy and we can get you more time, even though we can wipe out all your debts. A person can then begin to find another place to live, he has no other debt, no old debts to pay. He can afford to make the rent payments, and maybe a landlord will let him stay.

Here is another advertisement, from Los Angeles: Stop this eviction, from 1 to 6 months. I know under the Senator's amendment it might not take quite as long. He would cut that time down. But he said from 1 to 6. But

under his amendment I just went through, wouldn't the Senator agree, it is at least a month to 6 weeks?

Mr. FEINGOLD. Mr. President, I ask the Senator, didn't we come to the conclusion that we are talking 6 weeks and not 6 months? Would the Senator concede that is a big difference, 6 weeks versus 6 months?

Mr. SESSIONS. Not if you depend on the rent every month, as many people do who rent out their garage.

Mr. FEINGOLD. Isn't there a substantial difference between 6 weeks and 6 months of rent? I would say that is significant.

Mr. SESSIONS. It is significant if you don't get rent for 2 months or 1 month or 6 months, if you need it.

The Senator suggests these people are not trying to game the system. They are not sophisticated in all of this. They go to lawyers. They take advertisements like this. Those advertisements will still be there. They tell tenants how to do this. They are shocked when the lawyer says, don't pay any more on your credit card. Don't pay any more at the bank. Don't pay any more of your debts. Take your next paycheck, give it to me, and I will wipe out everything you owe.

I ask unanimous consent to have printed in the RECORD these three documents.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

7 MONTHS FREE RENT

100% GUARANTEED IN WRITING

No matter how far you are behind in your rent. We guarantee you can stay in your apt. or house for 2–7 months more without paying a penny!!! Find out how. We can stop the Sheriff or Marshall and get you more time. If the Sheriff or Marshall has been to your home, don't panic CALL US! If you lost in court don't give up. Call us and we'll get you more time.

Call Now (213) * * * All counties (Orange, Riverside, San Bernardino, Ventura, etc.) are open 24 hours. Call us and we'll give you our toll-free number (800 * * *). If all lines are busy please call (213) * * * for the location nearest you.

TENANT ORGANIZATION, INC.

Dear Tenant, As you know your landlord has filed for your eviction. Chances are you'll have to move! How long until you are forced to move depends on you.

The TENANT ORGANIZATION can legally stop your eviction for up to 120 days at rock bottom prices. ALL WITHOUT HAVING TO PAY RENT OR APPEAR IN COURT!

We are not a foundation or a National bureau we are the only TENANT ORGANIZATION in Southern California. Our prices are the lowest with the best service and quality you can find. For example we will prepare and file a Chapter 7 or 13 Bankruptcy Petition for only $120. This is a Federal Restraining Order that will delay your eviction for an average of 2 months. That is not all! We have more moves when it comes to prolonging your eviction. more moves than MAGIC JOHNSON!

REMEMBER THE TENANT ORGANIZATION CAN HELP YOU EVEN IF:

You have lost in Court.
Attorneys or even Judges order you to move.
Legal Aid can't help you and says you must move.
Your situation seems hopeless, JUST CALL!

A very urgent warning! Beware of strangers showing up at your front door unexpected and uninvited offering a legal service for your money. Usually these con men and rip off artists will claim to be attorneys or sent by the court. If you are approached by any of these people report them to your local police department. Don't become their next victim!

QUALITY

NEED MORE TIME TO MOVE?

Public records indicate that you are being SUED in the Los Angeles Municipal Court as a party to an Unlawful Detainer Action.

California Law requires that you file an ANSWER to the Complaint Within 5 Days of being served by the Landlord or be forcibly evicted from the premises that you now occupy. For as little as $20.00 you can begin to:

STOP THIS EVICTION FROM 1 TO 6 MONTHS

Whether you appear in the Municipal Court or not, there are Federal Laws which will assist you in your efforts to stop this eviction. A Federal Court Restraining Order, which is automatic upon filing, will immediately stop the Municipal Court, all Marshall's or Sheriff's from continuing this eviction.

Prompt Action in this Matter is Necessary

Failure to respond to this most urgent matter may result in your Immediate Eviction.

For Assistance in filing your answer or obtaining an Automatic Restraining Order Call 24 hr. 7 days a week

Mr. SESSIONS. One of the things Senator GRASSLEY has done in the bill, and the Senator has mentioned, is to provide that you do not have to have an attorney in bankruptcy court for most of the actions that will take place. This is indeed a good step forward. You would not have to have an attorney in this landlord tenant situation. I would suggest that for the average small apartment owner who gets a notice that he is to stay his eviction procedures, and he has a lawyer who is doing the eviction procedures, he is going to ask his lawyer: What is this? What can you do to get this stay lifted? The landlord is going to hire a lawyer and end up spending several hundred dollars to get this matter taken care of, when ultimately, the procedure is such that there will be no legal basis for the filing of the complaint in the overwhelming number of cases.

I understand the Senator's concern. I believe this bill, as written, will provide all the protections the States have given to tenants. I believe we have a responsibility to see they have protections, that they can defend their interests in court before being thrown out of their apartments.

And, indeed, that is the law in every State in America today. But I do not believe we ought to allow those who file bankruptcy to have substantial benefits over those who don't file bankruptcy, who are managing somehow, in some way, on the same income, to pay their debts. I don't believe they should have a superior advantage. I don't believe landlords who are going to lose in this bankruptcy proceeding, no telling how many months rent, should be required to fund additional rents. If this body wants to pay them to allow people to stay, it is OK; otherwise, it is not.

I yield the floor.

SATELLITE TELEVISION SERVICE

Mrs. LINCOLN. Mr. President, I rise today on behalf of the 570,000 satellite viewers in the State of Arkansas who would like to watch local news broadcasts over their satellite dishes. Since I began serving in the Senate in January, I have received more phone calls, letters, and postcards regarding satellite television service than about Federal spending, crime, health care, or many of the other important issues we have debated this year.

Many constituents complained to me earlier this year after they lost some of their network signals due to a court order. Others have been worried they will lose part of their service by December 31. I have kept all of these constituents informed about developments with the bill that would let them keep their full satellite service.

When we passed the bill—which most people refer to as the Satellite Home Viewer Act—by unanimous consent in May, I told my constituents their problems would soon be resolved. Then, as the summer days got shorter and the leaves began to fall, I told them to just be patient. I said, ''It will be just a few more weeks,'' because members of the conference committee had begun to meet.

Now, as we rush to conclude the legislative session, my constituents, and millions of others across the country, are still waiting. I now share their anger with what they perceive as Washington interfering with their access to information and entertainment. I have been told there is only one Senator who is holding up the process of passing a bill that would permit satellite viewers to receive local network signals over their satellite dishes. This is especially frustrating considering the House of Representatives has overwhelmingly approved a bill by a vote of 411–8.

In my opinion, it is so unreal that those who stand in the way of this legislation would think that as we rush to finish the important task of funding the Federal Government, they can kill this bill in the 11th hour and no one will notice. I am here to bear witness that people will notice. As many as 50 million people will notice because that is how many people risk losing part of their satellite service if we do not complete action on the satellite bill before the end of this session.

The satellite TV conference report is the product of hard-fought and very extensive negotiation among conferees. The provision that one Senator has expressed concerns about is especially important for residents of rural States. The local broadcast signal provision in the satellite bill would create a loan

guarantee to bring local channels via satellite into small television markets. Without this loan guarantee, there is little chance that any corporation will make a business decision to launch a satellite that would enable it to beam local television signals into rural communities. Local broadcasters provide people with local news and vital details about storm warnings and school closings. People in rural communities need access to this information. They deserve no less.

It is important to note that this loan guarantee will not cost the taxpayers 1 cent because a credit risk premium would cover any losses from default on the federally backed private loan.

This rural provision should stay in the satellite bill, and we should vote on this bill in the light of day rather than sneaking a whittled-down version into an omnibus package.

I hold in my hand a letter signed by a bipartisan group of 24 Senators urging the majority leader to file cloture on and proceed to the satellite bill. After we delivered the letter, five additional Senators called my office seeking to sign it. I understand that another letter supporting the rural provision may be circulating as I speak.

Mr. President, I urge the majority leader to listen to the will of the people and to the majority of the Members of this body. Let us vote on this today.

Mr. LEAHY. Mr. President, if I could take a moment to comment, I compliment Senator LINCOLN for her comments. I totally agree with her. There was a long and difficult conference. It was the Intellectual Property Communication Omnibus Reform Act—a long and difficult conference. We had a lot of give and take. We had conferees from two Senate committees. It became a Rubik's Cube, where everybody had to give something. We got it through, and it passed. I believe my friend said the vote in the House was 411–8. In my little State, we have 70,000 homes with satellite dishes that will be left dark if we don't get this. There are 12 million nationwide.

I hope we can do this before we go out. The heavy lifting has already been done. It was done in the committee of conference. The distinguished Senator from Arkansas made very clear throughout that whole time the needs of her constituents, as have other Senators. I hope that whether they are sitting in a farmhouse in Vermont, a home in Arkansas, or anywhere else, if on New Year's Eve they want to watch the festivities by satellite, they can do that. I compliment the Senator.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

PRESCRIPTION DRUGS

Mr. WYDEN. Mr. President, I wanted to take a few minutes to talk, as I have on several occasions recently, about the issue of prescription drugs and the Nation's elderly. You certainly can't open up a major publication these days without reading about this issue.

The New York Times, on Sunday last, had an excellent article. Time magazine, which came out in the last couple of days, had a lengthy discussion of prescription drugs and seniors. These are all very captivating discussions, but almost all of them end with the author's judgment that nothing is going to get done in Congress about this critical issue. They go on and on for pages and, finally, the author winds around to the conclusion that this issue has been tied up in partisanship and the kind of bickering that you see so often in Washington, DC. There you have it. Case closed. Lots of arguing but no relief for the Nation's older people. Lots of politics but no results.

So what I have been trying to do, in an effort to break the gridlock on that issue, is to come to the floor of the Senate and talk specifically about a bipartisan piece of legislation, the Snowe-Wyden bill, which has received what amounts to a majority of Senators' support at this point because they have already voted for the funding plan that we envisage, and to talk about how the Senate could come forward with real relief for the Nation's older people and do it in a bipartisan way.

As part of the effort to break the gridlock, as this poster next to me indicates, I hope seniors will send to each of us copies of their prescription drug bills. As a result of seniors and their families being involved in this way, this will help to bring about a bipartisan effort in the Senate and actually win passage of the legislation and bring about relief for older people.

The Snowe-Wyden legislation is called the SPICE bill, the Senior Prescription Insurance Coverage Equity Act. It ought to be a subject Members of Congress know something about because the Snowe-Wyden bill is based on the Federal Employees Health Benefits Plan. It is not some alien, one-size-fits-all Federal price control regime but something that offers a lot of choice and alternatives and uses the forces of the marketplace to deliver good health care to Members of Congress and their families.

Senator SNOWE and I have essentially used that model for the approach that we want to take in delivering prescription drug benefits for the Nation's older people. Fifty-four Members of the Senate, as part of the budget resolution, said they would vote for a specific way to fund the legislation. What I have tried to do is come to the floor on a number of occasions recently and as a result of folks reading this poster and sending copies of their prescription drug bills to us individually in the Senate in Washington, DC, I hope to be able to show the need in our country is enormous and to help catalyze bipartisan action.

Tonight, in addition to reading briefly from some of the bills I have received in recent days, I am going to talk a little bit about how it is not going to be possible to solve this problem unless the approach the Senate devises, in addition to being bipartisan, addresses the question of affordable insurance. For example, this Time magazine article that came out today—a very interesting and very thoughtful piece and I commend the author for most of what is written—talks about the role of the Internet. It says there are going to be a variety of proposals debated on the floor of the Senate. But with the Internet, people are going to just try to go out and buy prescription drugs and it goes into various details about how seniors can buy prescriptions on line.

I was director of the Gray Panthers at home in Oregon for about 7 years before I was elected to the Congress. Suffice it to say, I can assure you that some of the most frail and vulnerable older people in our country are not going to be able to buy their prescriptions on line the way Time magazine envisages. But perhaps even more important, if an older person is spending more than half of his or her Social Security check on prescription medicine—and I have given example after example in recent days of older people in our country, at home in our States. I am very pleased my friend and colleague, Senator SMITH, is in the chair because he has talked often about the need for bipartisan action on this issue to help seniors.

I think both of us would agree that if you have an older person who is spending more than half of their monthly income on prescription drugs—more than half of their Social Security checks, for example, and a lot of them get nothing but Social Security—those folks are going to need decent insurance coverage. They need to be in a position to get insurance coverage that will pick up a significant hunk of their prescription drug costs.

The Time magazine article tells you all about buying drugs over the Internet. But a lot of those senior citizens with an income of $11,000 or $12,000 a year—a modest income—when they are spending more than half of their income on prescription drugs are not going to find an answer on the Internet. They are going to need decent insurance coverage.

The Snowe-Wyden legislation envisages—is a detailed plan, it is a specific plan, a bipartisan plan, S. 1480—and lays out a system that involves marketplace choices and competitive forces in the private sector. Seniors will be in a position to have real clout when it comes to purchasing private insurance.

I think what is so sad about the situation with respect to our older people and prescription drugs is they get hit by a double whammy. Medicare doesn't cover prescription medicine. That is the way the program began back in the middle 1960s.

Second, a lot of the big buyers, health maintenance organizations, or a plan, can go out and negotiate a discount. And the senior who walks into a

pharmacy in our home State in Coos Bay or Beaverton or Pendleton or some part of our home State, ends up, in effect, paying a premium because the big buyers are able to negotiate discounts.

It is critical that seniors be in a position to get more affordable private insurance for their prescription medicine.

Under the Snowe-Wyden legislation for seniors on a modest income, other than a copayment or deductible, the legislation would pick up the entire part of that senior's insurance premium that covers prescription drugs.

That is something that will help that frail older person. It is not going to be the Internet that is going to be a panacea for that older person but legislation that helps that elderly widow or retired gentleman afford private insurance coverage is something that will be of help to them. That is what the Snowe-Wyden legislation is all about.

Tonight, I want to read from a few letters I have received in the last couple of days. And I will continue in the days ahead as the Senate wraps up—we hope it won't be too many more days ahead—to bring these kinds of cases to the floor of the Senate in an effort to try to see the Senate come together in a bipartisan way and provide some relief for older people.

One elderly couple, for example, wrote me about their medical situation, reporting that both had recently had heart surgery and one of them, in addition, had a stroke. They are taking blood-thinner drugs. They are taking important cholesterol-lowering drugs—Lipitor—and drugs for lowering blood pressure. They are breaking that particular medicine in half because they cannot afford their prescriptions, and then they are taking a drug which serves as an antidepressant.

This couple has a combined income of around $1,500 a month. For the month of October alone, they spent $888 on just the drugs I mentioned. Over half of their monthly income is going for prescription medicine.

I don't believe there is going to be relief for that elderly couple over the Internet. They are not going to be able to deal with that financial predicament where they spend over half of their monthly income on prescription medicine through some ''www'' opportunity on the Internet. They are going to need decent insurance coverage.

That is what the bipartisan Snowe-Wyden legislation tries to provide.

The second case I would like to touch on tonight comes from our home State. An elderly woman wrote me to report that in recent days she spent more than $800 on her prescription medicine. She writes: ''I'm on a fixed income. It's just getting harder and harder. Medicare help with prescriptions is a real need.''

Finally, a third letter that I think sums up the kind of predicament that a lot of seniors in our State are facing comes from Beaverton where an elderly couple is trying to make ends meet essentially with just Social Security and a little bit of help from family.

When they are finished paying for their prescription drugs—this is an elderly couple in Beaverton, OR, in our home State—they have $107.40 left over to live for the month.

Just think about that. It is not an isolated kind of case. Think about what it has to be like for an older couple to have $107 left over for living after they have paid for their prescription medicine.

In the last sentence, this particular elderly woman just asked a question: ''Can you help?''

I think that really sums it up.

I think the American people want to see if the Senate, instead of the usual tired routine of bickering and arguing and inaction, will produce a bipartisan plan to provide real relief.

What I find so striking, and why I am so proud to have teamed up with the Republican Senator from Maine on this bipartisan issue, is that when I am asked at home—I had a town meeting a couple of days ago on the Oregon coast. And the President often has the same kind of community session. I was asked about whether the Nation can afford to cover prescription medicine.

My answer is, if you are reading these bills, that America cannot afford not to cover prescription medicine because these drugs, as in the case I described initially, are drugs that keep people well. They help people deal with blood pressure. They help people deal with cholesterol. These are drugs to help keep people healthy. If you keep them healthy, they don't land in the hospital where they rack up those huge charges for Part A of Medicare. I cited repeatedly these anticoagulant medicines.

Evidence shows that for perhaps $1,000 a year, seniors could get a comprehensive program of anticoagulant medicines that can help prevent strokes. We have seen again and again that if you can't get this kind of preventive medical help and you incur a stroke, it costs more than $100,000 to pick up the cost.

That is really the choice, it seems to me, for the Senate. I think the Presiding Officer of the Senate and I have shown in our home States that it is possible on a whole host of issues, frankly, issues that a lot of people think are more divisive than even prescription medicine, to come together in a bipartisan way. I am hopeful the Senate can show that as well. We have seen one poll after another demonstrating that the American people want Congress to provide real relief.

In the last couple of weeks, I have seen several polls which indicate that helping frail and vulnerable seniors with prescription drug coverage through Medicare is one of the top two or three concerns for this country.

Instead of these articles that we are seeing coming out of Time magazine and New York Times and others saying we probably won't be finished, and there won't be an effective answer, I would like to see the Senate show we can really follow through and produce for the older people of this country.

In the days left of this session—we all hope there won't be many more—until we get comprehensive bipartisan legislation that provides the elderly real relief, I intend to keep coming to the floor of the Senate to talk about this issue.

I hope folks who are listening tonight will send in copies of their prescription drug bills.

This poster says it all: ''Send in your prescription drug bills.'' Send them to each of us in the Senate in Washington D.C.

I can tell you the bills that are coming into my office—they are really coming in now as a result of our taking the opportunity to discuss this issue on the floor of the Senate—say that this is an urgent need.

There are people who write who are conservative. There are people who write who are liberals, Democrats, Republicans, and independents, and all across the political spectrum who say: Get the job done. We are not interested in the traditional bickering and fighting about who gets credit, whose turf is being invaded, and which particular parochial kind of issue is being placed ahead of the national wellbeing.

This Nation's seniors and this Nation's families want us to come together and deal with this issue.

I intend to come back on the floor of the Senate again and again until the Senate does.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

MORNING BUSINESS

Mr. SESSIONS. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO KJAM IN CELEBRATION OF ITS 40TH YEAR OF BROADCASTING

Mr. DASCHLE. Mr. President, I would like to take this opportunity to acknowledge the 40th year of broadcasting for radio station KJAM-FM, serving Madison, South Dakota and area communities. KJAM Radio first aired on December 3rd, 1959, and this December 3rd, the staff and friends of the radio station will be celebrating this remarkable feat in radio broadcasting with a well-deserved anniversary party.

Small town, locally owned radio stations like KJAM are one of rural America's unique cultural contributions to our nation. They mirror the strong values of the small towns they serve. KJAM has served Madison well, and I would like to commend the employees

and supporters of KJAM for their dedication over these 40 years in bringing to the area local and regional news, weather, and broadcasts of events for Dakota State University and area high schools.

Beginning in January, KJAM will be managed by Three Eagles Communications, which I am sure will continue to enrich the lives of area residents with quality radio broadcasting.

I know my colleagues will join me in honoring John and JoLynn Goeman, the owners of KJAM, who have given so much to the Madison community. John Goeman is the only employee who has been with the station since its inception, and I know his listeners will be sad to hear his last greeting to radio listeners with the ''First Edition'' of the day's news. We all owe an enormous debt of gratitude to the Goemans and KJAM for making such an invaluable contribution to Madison and the entire state of South Dakota.

SENATE QUARTERLY MAIL COSTS

Mr. MCCONNELL. Mr. President, in accordance with section 318 of Public Law 101–520 as amended by Public Law 103–283, I am submitting the frank mail allocations made to each Senator from the appropriation for official mail expenses and a summary tabulation of Senate mass mail costs for the third and fourth quarter of FY99 and ask unanimous consent it be printed in the RECORD. The first and second quarters of FY99 cover the periods of April 1, 1999, through June 30, 1999, and July 1, 1999 though September 30, 1999. The official mail allocations are available for franked mail costs, as stipulated in Public Law 105–275, the Legislative Branch Appropriations Act of 1999.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senators	FY 99 official mail allocation	Total pieces	Pieces per capita	Total cost	Cost per capita
SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING JUNE 30, 1999					
Abraham	$111,746	0	0	0.00	0
Akaka	34,648	0	0	0.00	0
Allard	63,266	0	0	0.00	0
Ashcroft	77,190	0	0	0.00	0
Baucus	33,857	700	0.00088	$942.35	$0.00118
Bayh	60,223	0	0	0.00	0
Bennett	40,959	0	0	0.00	0
Biden	31,559	0	0	0.00	0
Bingaman	41,646	0	0	0.00	0
Bond	77,190	0	0	0.00	0
Boxer	301,322	0	0	0.00	0
Breaux	66,514	0	0	0.00	0
Brownback	49,687	0	0	0.00	0
Bryan	41,258	0	0	0.00	0
Bumpers	13,218	0	0	0.00	0
Bunning	46,853	0	0	0.00	0
Burns	33,857	8,250	0.01033	6,859.62	0.00859
Byrd	43,560	0	0	0.00	0
Campbell	63,266	0	0	0.00	0
Chafee	34,037	0	0	0.00	0
Cleland	95,484	0	0	0.00	0
Coats	21,139	0	0	0.00	0
Cochran	50,337	0	0	0.00	0
Collins	37,775	0	0	0.00	0
Conrad	31,000	0	0	0.00	0
Coverdell	95,484	0	0	0.00	0
Craig	35,841	0	0	0.00	0
Crapo	27,070	0	0	0.00	0
D'Amato	183,036	0	0	0.00	0
Daschle	31,638	0	0	0.00	0
DeWine	132,302	0	0	0.00	0
Dodd	56,116	0	0	0.00	0
Domenici	41,646	0	0	0.00	0
Dorgan	31,000	1,480	0.00232	217.74	0.00034
Durbin	128,275	0	0	0.00	0
Edwards	76,489	0	0	0.00	0
Enzi	29,891	0	0	0.00	0
Faircloth	29,275	0	0	0.00	0
Feingold	72,089	0	0	0.00	0
Feinstein	301,322	0	0	0.00	0
Fitzgerald	97,925	1,500	0.00013	513.31	0.00005
Ford	16,343	0	0	0.00	0
Frist	76,208	0	0	0.00	0
Glenn	35,757	0	0	0.00	0
Gorton	78,087	0	0	0.00	0
Graham	182,107	2,134	0.00017	827.99	0.00006
Gramm	204,461	0	0	0.00	0
Grams	67,542	953	0.00022	777.11	0.00018
Grassley	52,115	0	0	0.00	0
Gregg	35,947	0	0	0.00	0
Hagel	40,350	0	0	0.00	0
Harkin	52,115	0	0	0.00	0
Hatch	40,959	0	0	0.00	0
Helms	100,311	0	0	0.00	0
Hollings	61,281	0	0	0.00	0
Hutchinson	50,285	0	0	0.00	0
Hutchison	204,461	0	0	0.00	0
Inhofe	58,788	0	0	0.00	0
Inouye	34,648	0	0	0.00	0
Jeffords	30,740	3,985	0.00708	2,040.32	0.00363
Johnson	31,638	36,973	0.05312	15,214.26	0.02186
Kempthorne	9,246	0	0	0.00	0
Kennedy	82,469	2,020	0.00034	471.62	0.00008
Kerrey	40,350	0	0	0.00	0
Kerry	82,469	1,052	0.00018	392.39	0.00007
Kohl	72,089	0	0	0.00	0
Kyl	68,434	0	0	0.00	0
Landrieu	66,514	0	0	0.00	0
Lautenberg	97,304	0	0	0.00	0
Leahy	30,740	3,858	0.00686	3,043.36	0.00541
Levin	111,476	5,267	0.00057	4,771.94	0.00051
Lieberman	56,116	0	0	0.00	0
Lincoln	38,142	220	0.00009	73.92	0.0003
Lott	50,337	0	0	0.00	0
Lugar	79,091	0	0	0.00	0
Mack	182,107	0	0	0.00	0
McCain	68,434	22,000	0.00600	16,742.24	0.00457
McConnell	61,650	0	0	0.00	0
Mikulski	71,555	0	0	0.00	0
Moseley-Braun	128,275	0	0	0.00	0
Moynihan	183,036	0	0	0.00	0
Murkowski	30,905	0	0	0.00	0
Murray	78,087	2,350	0.00048	525.66	0.00011
Nickles	58,788	0	0	0.00	0
Reed	34,037	0	0	0.00	0
Reid	41,258	0	0	0.00	0
Robb	87,385	0	0	0.00	0
Roberts	49,687	197,500	0.07972	25,398.47	0.01025
Rockefeller	43,560	0	0	0.00	0
Roth	31,559	0	0	0.00	0
Santorum	138,265	0	0	0.00	0
Sarbanes	71,555	0	0	0.00	0
Schumer	139,902	0	0	0.00	0
Sessions	67,265	0	0	0.00	0
Shelby	67,265	0	0	0.00	0
Smith, Gordon	56,383	0	0	0.00	0
Smith, Robert	35,947	0	0	0.00	0
Snowe	37,755	328	0.00027	264.69	0.00022
Specter	138,265	0	0	0.00	0
Stevens	30,905	0	0	0.00	0
Thomas	29,891	1,011	0.00223	812.35	0.00179
Thompson	76,208	0	0	0.00	0
Thurmond	61,281	0	0	0.00	0
Torricelli	97,304	1,260	0.00016	1,174.32	0.00015
voinovich	101,012	0	0	0.00	0
Warner	87,385	0	0	0.00	0
Wellstone	67,542	0	0	0.00	0
Wyden	56,383	0	0	0.00	0
SENATE QUARTERLY MASS MAIL VOLUMES AND COSTS FOR THE QUARTER ENDING SEPT. 30, 1999					
Abraham	111,746	0	0	0.00	0
Akaka	34,648	0	0	0.00	0
Allard	63,266	0	0	0.00	0
Ashcroft	77,190	0	0	0.00	0
Baucus	33,857	0	0	0.00	0
Bayh	60,223	0	0	0.00	0
Bennett	40,959	0	0	0.00	0
Biden	31,559	0	0	0.00	0
Bingaman	41,646	0	0	0.00	0
Bond	77,190	0	0	0.00	0
Boxer	301,322	353,000	0.01185	50,824.78	0.00171
Breaux	66,514	0	0	0.00	0
Brownback	49,687	0	0	0.00	0
Bryan	41,258	22,500	0.01872	4,664.01	0.00388
Bumpers	13,218	0	0	000	0
Bunning	46,853	0	0	0.00	0
Burns	33,857	11,296	0.01414	8,929.76	0.01118
Byrd	43,560	0	0	0.00	0
Campbell	63,266	0	0	0.00	0
Chafee	34,037	0	0	0.00	o
Cleland	95,484	0	0	0.00	0
Coats	21,139	0	0	0.00	0
Cochran	50,337	0	0	0.00	0
Collins	37,775	0	0	0.00	0
Conrad	31,000	0	0	0.00	0
Coverdell	95,484	0	0	0.00	0
Craig	35,841	0	0	0.00	0
Crapo	27,070	0	0	0.00	0
D'Amato	183,036	0	0	0.00	0
Daschle	31,638	0	0	0.00	0
DeWine	132,302	0	0	0.00	0
Dodd	56,116	0	0	0.00	0
Domenici	41,646	0	0	0.00	0
Dorgan	31,000	4,571	0.00716	3,971.14	0.00622
Durbin	128,275	1,300	0.00011	1,043.44	0.00009
Edwards	76,489	6,806	0.00103	7,217.31	0.00109
Enzi	29,891	0	0	0.00	0
Faircloth	29,275	0	0	0.00	0
Feingold	72,089	0	0	0.00	0
Feinstein	301,322	0	0	0.00	0
Fitzgerald	97,925	0	0	0.00	0
Ford	16,343	0	0	0.00	0
Frist	76,208	0	0	0.00	0
Glenn	35,757	0	0	00.0	0
Gorton	78,087	320,000	0.06575	57,244.02	0.01176
Graham	182,107	0	0	0.00	0
Gramm	204,461	1,425	0.00008	315.15	0.00002
Grams	67,542	52,315	0.01196	43,346.34	0.00991
Grassley	52,115	270,000	0.09723	53,876.10	0.01940
Gregg	35,947	0	0	0.00	0
Hagel	40,350	0	0	0.00	0
Harkin	52,115	0	0	0.00	0
Hatch	40,959	0	0	0.00	0
Helms	100,311	0	0	0.00	0
Hollings	61,281	0	0	0.00	0
Hutchinson	50,285	0	0	0.00	0
Hutchison	204,461	0	0	0.00	0
Inhofe	58,788	0	0	0.00	0
Inouye	34,648	0	0	0.00	0
Jeffords	30,740	66,450	0.11808	10,678.95	0.01898
Johnson	31,638	264,900	0.38060	78,299.58	0.11250
Kempthorne	9,246	0	0	0.00	0
Kennedy	82,469	1,222	0.00020	420.50	0.00007
Kerrey	40,350	0	0	0.00	0
Kerry	82,469	712	0.00012	622.27	0.00010
Kohl	72,089	0	0	0.00	0
Kyl	68,434	0	0	0.00	0
Landrieu	66,514	0	0	0.00	0
Lautenberg	97,304	0	0	0.00	0
Leahy	30,740	5,500	0.00977	1,503.55	0.00267
Levin	111,476	2,000	0.00022	1,522.41	0.00016
Lieberman	56,116	0	0	0.00	0
Lincoln	38,142	0	0	0.00	0
Lott	50,337	0	0	0.00	0
Lugar	79,091	0	0	0.00	0
Mack	182,107	0	0	0.00	0
McCain	68,434	0	0	0.00	0
McConnell	61,650	0	0	0.00	0
Mikulski	71,555	0	0	0.00	0
Moseley-Braun	128,275	0	0	0.00	0
Moynihan	183,036	294,000	0.01634	57,400.05	0.00319
Murkowski	30,905	0	0	0.00	0
Murray	78,087	42,150	0.00866	7,361.16	0.00151
Nickles	58,788	1,833	0.00058	1,445.23	0.00046
Reed	34,037	1,150	0.00115	332.67	0.00033
Reid	41,258	22,500	0.01872	4,818.46	0.00401
Robb	87,385	0	0	0.00	0
Roberts	49,687	200,000	0.08072	27,570.98	0.01113
Rockefeller	43,560	122,500	0.06830	20,402.30	0.01138
Roth	31,559	0	0	0.00	0
Santorum	138,265	0	0	0.00	0
Sarbanes	71,555	0	0	0.00	0
Schumer	139,902	5,333	0.00030	4,587.20	0.00026
Sessions	67,265	0	0	0.00	0
Shelby	67,265	0	0	0.00	0
Smith, Gordon	56,383	0	0	0.00	0
Smith, Robert	35,947	0	0	0.00	0
Snowe	37,755	930	0.00076	855.21	0.00070
Specter	138,265	0	0	0.00	0
Stevens	30,905	0	0	0.00	0
Thomas	29,891	676	0.00149	599.57	0.00132
Thompson	76,208	0	0	0.00	0
Thurmond	61,281	0	0	0.00	0
Torricelli	97,304	100,000	0.01291	79,601.81	0.01027
Voinovich	101,012	3,000	0.00028	2,690.34	0.00025
Warner	87,385	0	0	0.00	0
Wellstone	67,542	0	0	0.00	0
Wyden	56,383	0	0	0.00	0

Other offices	Total pieces	Total cost
COMMITTEE MASS MAIL TOTALS FOR THE QUARTER ENDING SEPT. 30, 1999		
The Vice President	0	0.00
The President Pro-Tempore	0	0.00
The Majority Leader	0	0.00
The Minority Leader	0	0.00
The Assistant Majority Leader	0	0.00
The Assistant Minority Leader	0	0.00
Sec of Majority Conference	0	0.00
Sec of Minority Conference	0	0.00
Agriculture Committee	0	0.00
Appropriations Committee	0	0.00
Armed Services Committee	0	0.00
Banking Committee	0	0.00
Budget Committee	0	0.00
Commerce Committee	0	0.00
Energy Committee	0	0.00
Environment Committee	0	0.00
Finance Committee	0	0.00
Foreign Relations Committee	0	0.00
Governmental Affairs Committee	0	0.00
Judiciary Committee	0	0.00
Labor Committee	0	0.00
Rules Committee	0	0.00
Small Business Committee	0	0.00
Veterans Affairs Committee	0	0.00
Ethics Committee	0	0.00
Indian Affairs Committee	0	0.00
Intelligence Committee	0	0.00
Aging Committee	0	0.00
Joint Economic Committee	0	0.00
Joint Committee on Printing	0	0.00

Other offices	Total pieces	Total cost
JCMTE Congress Inaug	0	0.00
Democratic Policy Committee	0	0.00
Democratic Conference	0	0.00
Republican Policy Committee	0	0.00
Republican Conference	0	0.00
Legislative Counsel	0	0.00
Legal Counsel	0	0.00
Secretary of the Senate	0	0.00
Sergeant at Arms	0	0.00
Narcotics Caucus	0	0.00
SCMTE POW/MIA	0	0.00
Total	0	0.00

CRASH OF THE UNITED NATIONS WORLD FOOD PROGRAMME AIRCRAFT

Mr. DURBIN. Mr. President, on Friday, November 12, a United Nations World Food Programme airplane carrying 24 people crashed in northern Kosovo, killing all on board. The plane departed Rome bound for Pristina, Kosovo—the wreckage was found only 20 miles from its destination. The passengers, mainly humanitarian aid workers, were on a routine flight run by the World Food Programme.

The World Food Programme is the world's largest international food aid organization that provides food aid to 75 million people worldwide through development projects and emergency operations.

The WFP fights both the acute hunger that grips a family fleeing civil conflicts and the chronic hunger that slowly gnaws away a life. Hunger afflicts one out of every seven people on earth. 800 million people are malnourished. Starvation threatens at least another 50 million victims of man-made and natural disasters. In 1998, the WFP delivered 2.8 million tons of food to 80 countries. These projects are enormous undertakings, and are sometimes not without human costs.

The WFP has lost more employees than any other UN agency in work-related accidents, illnesses or attacks. Fifty-one people since 1988 have lost their lives while in service to those who would otherwise go hungry. Among the 24 people who died in the most recent tragedy were doctors, a civil engineer, aid workers, a volunteer chemist, police officers and non-governmental organization workers.

As we begin to plan our Thanksgiving meals, let us pause a moment to reflect on those who dedicate themselves to the eradication of starvation. Let us remember our dear friend and colleague, Congressman Mickey Leland, who died in a plane crash 10 years ago while leading a mission to an isolated refugee camp in Ethiopia.

And as we talk about the United Nations, let us not forget who the U.N. is made up of—humanitarian aid workers who devote their lives, often at great risk, to easing the suffering of others.

THE UNITED STATES BORDER PATROL

Mr. ABRAHAM. Mr. President, it is my pleasure to rise as a cosponsor of S. Con. Res. 74, a resolution which recognizes the United States Border Patrol's 75 years of service to this country.

These brave men and women serve, day in and day out, as both defenders and ambassadors of our nation. With professionalism, civility and a watchful eye, members of the United States Border Patrol watch out for illegal immigrants and the entry of illegal drugs.

It is a difficult task, Mr. President. But one that our Border Patrol Agents perform well. And these duties are not just difficult, Mr. President. Oftentimes they are dangerous as well. Particularly in this era of well-armed thugs and smugglers, Border Patrol Agents may find themselves outgunned as they protect our nation's borders. 86 Border Patrol Agents and Pilots have lost their lives in the line of duty—6 in 1998 alone.

We all owe our Border Patrol our thanks for their bravery and their willingness to put in long, hard hours in service to their country.

I would like to make special note, Mr. President, of the members of the Detroit Sector of the U.S. Border Patrol. These fine individuals perform with grace in the face of very difficult assignments. In the Detroit sector, fewer than 20 Border Patrol field agents are expected to be responsible for four large Midwestern states—Michigan, Ohio, Indiana, and Illinois, an area covering hundreds of miles of border. This small number of Border Patrol agents also must assist INS investigators in responding to local law enforcement requests in these four states.

I salute the good work of the United States Border Patrol, and especially thank the members of the Detroit Sector for their work above and beyond the call of duty.

PEDRO MARTINEZ WINS 1999 AMERICAN LEAGUE CY YOUNG AWARD

Mr. KENNEDY. Mr. President, all of us in Massachusetts know that Pedro Martinez, the great pitcher for the Boston Red Sox, is the class of the American League. Yesterday, the Baseball Writers' Association of America confirmed that judgment by unanimously selecting Pedro Martinez as the winner of the Cy Young Award for the American League for 1999.

Pedro's record this year was brilliant. His 23 victories, his earned run average of 2.07, and his 313 strikeouts led the league in all three of those categories, and his dramatic victory over the New York Yankees in the third game of the American League Championship Series last month was the crowning achievement in his extraordinary season.

All of us in Boston are proud of the Red Sox and proud of Pedro Martinez. I congratulate him on this well-deserved recognition, and I ask unanimous consent that a ''Red Sox News Flash'' about the award be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RED SOX NEWS FLASH, NOV. 16, 1999

This afternoon Red Sox pitcher Pedro Martinez was selected the 1999 American League Cy Young award winner by the Baseball Writers' Association of America. The voting was unanimous, with Pedro finishing with 140 points, including all 28 first place votes.

Martinez led the American League in seven major pitching categories, including wins (23), ERA (2.07) and strikeouts (313), becoming the first Red Sox pitcher to lead the AL in those three categories since Cy Young in 1901. Martinez' 2.07 ERA was more than a run less than New York's David Cone, who ranked 2nd in ERA at 3.44. The right-hander also became the third pitcher to win the award in both leagues, joining Randy Johnson (1995 in AL & 1999 in NL) and Gaylord Perry (1972 in AL & 1978 in NL). He also becomes the fifth pitcher to win the award with two different clubs.

Pedro's 313 strikeouts in 1999 set a new Red Sox single season record. Martinez became the first American League pitcher with 300 or more strikeouts in a season since Randy Johnson in 1993 with Seattle (308) and he is one of 14 different pitchers to have struck out 300 or more batters in a season. He is the second pitcher in Major League History to achieve 300 or more strikeouts in both leagues (Randy Johnson is the other). Pedro is only the 9th player in Major League History to strike out 300 or more batters in a season more than once: joining Nolan Ryan (6x), Sandy Koufax (3x), Randy Johnson (3x, including '99), Sam McDowell (2x), Curt Schilling (2x), Walter Johnson (2x) and J.R. Richard (2x).

The Dominican Republic native tossed his 2nd career 1 hitter on September 10th at New York and set a career high with 17 strikeouts (tying the Major League season-high in 1999). Martinez became the first Red Sox pitcher to win 20 games since Roger Clemens in 1990 (21–6) and the first Sox pitcher other than Clemens since Dennis Eckersley in 1978. He also set a team record by striking out 10 or more batters 19 times in a season. He became the first right-handed pitcher to record 15 or more strikeouts 6 times in a season since Nolan Ryan in 1974. Pedro struck out the side 18 times in his 213.1 IP and has struck out 10 or more batters 54 times in his career, 27 times as a Red Sox.

Pedro Martinez becomes the third Red Sox pitcher to win the Cy Young award, joining Roger Clemens (1986, 1987 & 1991) and Jim Lonborg (1967). He is only the fifth AL Cy Young Award winner to be selected unanimously since 1967, when the award was first presented to a pitcher in both the American League and National League.

Previous AL Cy Young Award Winners:

1998 Roger Clemens, Toronto Blue Jays
1997 Roger Clemens, Toronto Blue Jays
1996 Pat Hentgen, Toronto Blue Jays
1995 Randy Johnson, Seattle Mariners
1994 David Cone, Kansas City Royals
1993 Jack McDowell, Chicago White Sox
1992 Dennis Eckersley, Oakland Athletics
1991 Roger Clemens, Boston Red Sox
1990 Bob Welch, Oakland Athletics
1989 Bret Saberhagen, Kansas City Royals
1988 Frank Viola, Minnesota Twins
1987 Roger Clemens, Boston Red Sox
1986 Roger Clemens, Boston Red Sox
1985 Bret Saberhagen, Kansas City Royals
1984 Guillermo (Willie) Hernandez, Detroit Tigers
1983 LaMarr Hoyt, Chicago White Sox
1982 Pete Vockovich, Milwaukee Brewers
1981 Rollie Fingers, Milwaukee Brewers
1980 Steve Stone, Baltimore Orioles
1979 Mike Flanagan, Baltimore Orioles

1978 Ron Guidry, New York Yankees
1977 Sparky Lyle, New York Yankees
1976 Jim Palmer, Baltimore Orioles
1975 Jim Palmer, Baltimore Orioles
1974 Jim (Catfish) Hunter, Oakland Athletics
1973 Jim Palmer, Baltimore Orioles
1972 Gaylord Perry, Cleveland Indians
1971 Vida Blue, Oakland Athletics
1970 Jim Perry, Minnesota Twins
1969 (tie) Mike Cuellar, Baltimore Orioles; Denny McLain, Detroit Tigers
1968 Denny McLain, Detroit Tigers
1967 Jim Lonborg, Boston Red Sox
1964 Dean Chance, Los Angeles Angels
1961 Whitey Ford, New York Yankees
1959 Early Wynn, Chicago White Sox
1958 Bob Turley, New York Yankees

Note: One award from 1956–66; NL pitchers won in 1956–57, 1960, 1962–63, 1965–66.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, November 16, 1999, the Federal debt stood at $5,689,775,697,887.62 (Five trillion, six hundred eighty-nine billion, seven hundred seventy-five million, six hundred ninety-seven thousand, eight hundred eighty-seven dollars and sixty-two cents).

One year ago, November 16, 1998, the Federal debt stood at $5,581,706,000,000 (Five trillion, five hundred eighty-one billion, seven hundred six million).

Five years ago, November 16, 1994, the Federal debt stood at $4,748,423,000,000 (Four trillion, seven hundred forty-eight billion, four hundred twenty-three million).

Ten years ago, November 16, 1989, the Federal debt stood at $2,918,690,000,000 (Two trillion, nine hundred eighteen billion, six hundred ninety million).

Fifteen years ago, November 16, 1984, the Federal debt stood at $1,627,271,000,000 (One trillion, six hundred twenty-seven billion, two hundred seventy-one million) which reflects a debt increase of more than $4 trillion—$4,062,504,697,887.62 (Four trillion, sixty-two billion, five hundred four million, six hundred ninety-seven thousand, eight hundred eighty-seven dollars and sixty-two cents) during the past 15 years.

UNDER THE INFLUENCE

Mr. LEVIN. Mr. President, in July, when the Senate debated the Commerce, Justice, State, and Judiciary fiscal year 2000 spending bill, an important amendment was adopted to the bill. That amendment, offered by my colleague Senator BOXER, would have made it illegal to sell or transfer firearms or ammunition to anyone under the influence of alcohol. Unfortunately, the House-Senate conference committee, in working out the differences between the two versions of this spending measure, removed the Senate-passed amendment from the final bill.

I do not understand how something so simple, so straightforward, could be deleted from the final bill. This amendment does nothing more than save lives and prevent injuries by prohibiting drunks from buying guns or ammunition. Under current law, it is illegal to sell firearms or ammunition to a purchaser under the influence of illicit drugs. This would simply close the loophole by making it illegal for someone under the influence of alcohol to purchase the same products.

It is unconscionable that House and Senate conferees deleted this commonsense provision from the bill. Unfortunately, this is just another example of how reasonable legislation is repeatedly stymied by the power of the NRA.

THE MICROSOFT RULING

Mr. HOLLINGS. Mr. President, two core principles guide our economy, competition and the rule of law. In the absence of competition there is no innovation or consumer choice. For over 100 years the anti-trust laws have served as an indispensable bullwark to ensure that unfettered competition does not result in monopoly power that stifles innovation and denies consumers a choice.

So it is curious that a veritable who's who of ''conservative'' politicians and think tanks unleashed a barrage of faxes attacking Federal Judge Thomas Penfield Jackson's decision in United States v. Microsoft.

Based on a voluminous record, Judge Jackson found that Microsoft had succeeded in ''stifling innovations that would benefit consumers, for the sole reason that they do not coincide with Microsoft's self-interest.''

The factual findings of the District Court held that ''Microsoft will use its prodigious market power and immense profits to harm any firm that insists on pursuing initiatives that could intensify competition against one of its core products.''

According to the District Court, Microsoft ''foreclosed an opportunity for PC makers to make Windows PC systems less confusing and more user-friendly as consumers desired.''

The record included the testimony of numerous high tech entrepreneurs who felt the lash of Microsoft's monopolistic wrath. From IBM's inability to gain support for its OS2/Warp operating system to Apple's inability to effectively compete with Windows to threats to cut off Netscape's ''oxygen supply,'' Microsoft engaged in a pernicious pattern of anticompetitive behavior, openly flaunting the rule of law. Perhaps the most damning of all was the evasive testimony of Microsoft founder William Gates.

It is, frankly, a record that is quite embarrassing. But rather than show remorse, Microsoft has embarked on a vendetta to punish the outstanding group of Justice Department lawyers who bested its minions of high-payed lawyers and spin doctors.

So, Mr. President, let me take this opportunity to praise the Justice Department's Antitrust Division and its leader Joel Klein. It is well known that I had my doubts about Mr. Klein, but I am pleased to say, and not too proud to admit, that I misjudged him. He is doing an outstanding job.

In the long run, failure to promote competition and innovation will undermine our preeminence in the high tech arena.

THE CONSERVATION AND REINVESTMENT ACT OF 1999

Mrs. LINCOLN. Mr. President, I rise today to join the Senator from Louisiana in calling upon our colleagues in the Senate, as well as the Administration, to capitalize on the momentum provided by the House Resources Committee last week in passing the Conservation and Reinvestment Act of 1999. We must not let this opportunity slip away to enact what may well be the most significant conservation effort of the century.

As part of any discussion into utilizing revenues from Outer Continental Shelf oil drilling to fund conservation programs, I want to ensure that wildlife programs are kept among the priorities of the debate. Specifically, I want to comment upon the importance of funding for wildlife conservation, education, and restoration efforts as provided in both the House and Senate versions of the Conservation and Reinvestment Act of 1999. This funding would be administered as a permanent funding source through the successful Pittman-Robertson Act.

This program enjoys a great deal of support including a coalition of nearly 3,000 groups across the country known as the Teeming with Wildlife Coalition. Also, this funding would be provided without imposing new taxes. Funds will be allocated to all 50 states for wildlife conservation of non-game species, with the principal goal of preventing species from becoming endangered or listed under the Endangered Species Act.

In my home state of Arkansas, we have recognized the importance of funding conservation and management initiatives. The people of Arkansas were successful in passing a one-eighth cent sales tax to fund these types of programs. As I'm sure is true all across this country, people don't mind paying taxes for programs that promote good wildlife management and help keep species off of the Endangered Species List.

By taking steps now to prevent species from becoming endangered, we are not only able to conserve the significant cultural heritage of wildlife enjoyment for the people of this country, but also to avoid the substantial costs associated with recovery for endangered species. In fact, all 50 states would benefit as a result of the important link between these wildlife education-based initiatives and the benefits of wildlife-related tourism.

I look forward to working with my colleagues on the Senate Energy and Natural Resources Committee to make

this historic legislation a reality upon our return early next year.

FIRST YEAR IN THE SENATE

Mr. SCHUMER. Mr. President, as the first session of the 106th Congress comes to an end, I cannot help but think of what an interesting and exciting first year it has been for me in the United States Senate. The experience has been a wonderful one, to say the least. As my colleagues all well know from their first days in the Senate, setting up a Senate office is a daunting task, and setting one up right does not happen by accident. Many have helped make my transition from the House to the Senate a smooth one, and I would like to take a moment to stop and thank, in particular, the dedicated and loyal employees of the Architect of the Capitol, the Secretary of the Senate, and the Senate Sergeant at Arms who played an integral role in making sure that my staff and I could serve the citizens of New York as effectively as possible.

From the Architect of the Capitol's office, a special thanks goes to the following: Sherry Britton, Michael Cain, Edolphus Carpenter, Tim Chambers, Jerry Coates, David Cox, Darvin Davis, Andre DeVore, Reggie Donahue, Ed Fogle, Bob Garnett, Steve Howell, Donna Hupp, Lamont Jamison, JoAnn Martin, Dwight McBride, Alpha McGee, Richard Muriel, Randy Naylor, James Outlaw, Albert Price, Lindwood Simmons, Sally Tassler, Doug Whittington, Jr., Clarence Williams, Caroll Woods, and Greg Young.

Kim Brinkman, Timothy O'Keefe, John Trimble, and Timothy Wineman from the Office of Secretary of the Senate deserve special recognition.

And, from the Senate Sergeant at Arms office, I would like to point out: Roosevelt Allen, Sterret Carter, Robert Croson, Val Fisher, Denise Gresham, Kenneth Lloyd, Michael Lussier, Stacy Norris, Theresa Peel, Dan Templeton, Jeanne Tessieri, and James Wentz.

The professionalism that each of these individuals displayed should be a source of great pride to their bosses, and if I wore a hat, I would tip it to them. But, for now, I hope they will accept my thanks and praise for a job well done.

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 sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 10:02 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2541. An act to adjust the boundaries of the Gulf Islands National Seashore to include Cat Island, Mississippi.

H.R. 2818. An act to prohibit oil and gas drilling in Mosquito Creek Lake in Cortland, Ohio.

H.R. 2862. An act to direct the Secretary of the Interior to release reversionary interests held by the United States in certain parcels of land in Washington County, Utah, to facilitate an anticipated land exchange.

H.R. 2863. An act to clarify the legal effect on the United States of the acquisition of a parcel of land in the Red Cliffs Desert Reserve in the State of Utah.

H.R. 3063. An act to amend the Mineral Leasing Act to increase the maximum acreage of Federal leases for sodium that may be held by an entity in any one State, and for other purposes.

H.R. 3257. An act to amend the Congressional Budget Act of 1974 to assist the Congressional Budget Office with the scoring of State and local mandates.

H.R. 3257. An act to require the Secretary of the Treasury to mint coins in conjunction with the minting of coins by the Republic of Iceland in commemoration of the millennium of the discovery of the New World by Lief Ericson.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 165. Concurrent resolution expressing United States policy toward the Slovak Republic.

H. Con. Res. 206. Concurrent resolution expressing grave concern regarding armed conflict in the North Caucasus region of the Russian Federation which has resulted in civilian casualties and internally displaced persons, and urging all sides to pursue dialog for peaceful resolution of the conflict.

H. Con. Res. 211. Concurrent resolution expressing the strong support of the Congress for the recently concluded elections in the Republic of India and urging the President to travel to India.

H. Con. Res. 222. Concurrent resolution condemning the assassination of Armenian Prime Minister Vazgen Sargsian and other officials of the Armenian Government and expressing the sense of the Congress in mourning this tragic loss of the duly elected leadership of Armenia.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2116) to amend title 38, United States Code, to establish a program of extended care services for veterans and to make other improvements in health care programs of the Department of Veterans Affairs.

The message also reported that the House disagrees to the amendment of the Senate to the bill (H.R. 2112) to amend title 28, United States Code, to allow a judge to whom a case is transferred to retain jurisdiction over certain multidistrict litigation cases for trial, and to provide for Federal jurisdiction of certain multiparty, multiform civil actions, and asks a conference with the Senate on the disagreeing votes of the two houses thereon; and appoints Mr. HYDE, Mr. SENSENBRENNER, Mr. COBLE, Mr. CONYERS, and Mr. BERMAN, as managers of the conference on the part of the House.

At 11:20 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolutions, in which it requests the concurrence of the Senate:

H.J. Res. 80. Joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes.

A message from the House of Representatives, received during the recess of the Senate, announced that the House has passed the following bills, without amendment:

S. 278. An act to direct the Secretary of the Interior to convey certain lands to the county of Rio Arriba, New Mexico.

S. 382. An act to establish the Minuteman Missile National Historic Site in the State of South Dakota, and for other purposes.

S. 1235. An act to amend part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to allow railroad police officers to attend the Federal Bureau of Investigation National Academy for law enforcement training.

S. 1398. An act to clarify certain boundaries on maps relating to the Coastal Barrier Resources System.

The message also announced that the House has passed the following bill, with amendment, in which it requests the concurrence of the Senate:

S. 416. An act to direct the Secretary of Agriculture to convey the city of Sisters, Oregon, a certain parcel of land for use in connection with a sewage treatment facility.

At 3:33 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3381. An act to reauthorize the Overseas Private Investment Corporation and the Trade and Development Agency, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

At 4:33 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker had signed the following enrolled joint resolution:

H.J. Res. 80. Joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes.

The enrolled joint resolution was signed subsequently by the President pro tempore (Mr. THURMOND).

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–6181. A communication from the President of the United States, transmitting, pursuant to law, a report relative to the export

to the People's Republic of China of an airport runway profiler containing an accelerometer; to the Committee on Foreign Relations.

EC–6182. A communication from the Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Chairman of the Securities and Exchange Commission, and the Chairman of the Futures Trading Commission, transmitting jointly, a report entitled ''Over-the-Counter Derivatives Markets and the Commodity Exchange Act''; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6183. A communication from the Administrator, Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Small Hog Operation Payment Program'' (RIN0560–AF70), received November 15, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6184. A communication from the Associate Administrator, Dairy Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Milk in the Central Arizona and New Mexico-West Texas Marketing Areas; Suspension of Certain Provisions of the Orders'' (Docket No. DA–99–05&09), received November 12, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6185. A communication from the Associate Administrator, Dairy Programs, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Milk in the Texas and Eastern Colorado Marketing Areas; Suspension of Certain Provisions of the Orders'' (Docket No. DA–99–08&07), received November 12, 1999; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6186. A communication from the Director, Civil Rights Center, Department of Labor, transmitting, pursuant to law, the report of a rule entitled ''Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998'' (RIN1292–AA29), received November 16, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–6187. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Resinous and Polymeric Coatings'' (Docket No. 91F–0431), received November 9, 1999; to the Committee on Health, Education, Labor, and Pensions.

EC–6188. A communication from the Managing Director, Federal Housing Finance Board, transmitting, pursuant to law, the report of a rule entitled ''Availability of Unpublished Information'' (RIN3069–AA81), received November 9, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–6189. A communication from the Acting Executive Director, Emergency Steel Guarantee Loan Board, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Emergency Steel Guarantee Loan Program'' (RIN3004–ZA00), received November 9, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–6190. A communication from the Acting Executive Director, Emergency Oil and Gas Guaranteed Loan Board, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Emergency Oil and Gas Guaranteed Loan Program'' (RIN3003–ZA00), received November 9, 1999; to the Committee on Banking, Housing, and Urban Affairs.

EC–6191. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled ''Public Financing of Presidential Primary and General Election Candidates'', received November 9, 1999; to the Committee on Rules and Administration.

EC–6192. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to the Development of a Medical Support Incentive for the Child Support Enforcement program; to the Committee on Finance.

EC–6193. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Partnership Returns Required on Magnetic Media'' (RIN1545–AW14) (TD 8843), received November 10, 1999; to the Committee on Finance.

EC–6194. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Return of Partnership Income'' (RIN1545–AU99) (TD 8841), received November 10, 1999; to the Committee on Finance.

EC–6195. A communication from the Chief, Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Acquisition of an S Corporation by a Member of a Consolidated Group'' (RIN1545–AW32) (TD 8842), received November 9, 1999; to the Committee on Finance.

EC–6196. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report entitled ''Benefits and Costs of the Clean Air Act, 1990 to 2010''; to the Committee on Environment and Public Works.

EC–6197. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a report relative to the Tennessee-Tombigbee Waterway Mitigation Project, Alabama and Mississippi''; to the Committee on Environment and Public Works.

EC–6198. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting a report entitled ''Category for Persistent, Bioaccumulative, and Toxic New Chemical Substances'' (FRL #6097–7); to the Committee on Environment and Public Works.

EC–6199. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Determination that State has Corrected Deficiencies; State of Arizona; Maricopa County'' (FRL #6468–8), received November 10, 1999; to the Committee on Environment and Public Works.

EC–6200. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Partial Withdrawal of Direct Final Rule for Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, Kern County Air Pollution Control District'' (FRL #6462–9), received November 10, 1999; to the Committee on Environment and Public Works.

EC–6201. A communication from the Director, Office of Regulatory Management and Information, Office of Policy, Planning and Evaluation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Vermont Negative Declaration'' (FRL #6474–1), received November 9, 1999; to the Committee on Environment and Public Works.

EC–6202. A communication from the Director, Office of White House Liaison, Department of Commerce, transmitting, pursuant to law, a report relative to the nomination of a Chief Financial Officer and Assistant Secretary for Administration; to the Committee on Commerce, Science, and Transportation.

EC–6203. A communication from the Chief, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Federal-State Joint Board on Universal Service'' (FCC 99–256) (CC Doc. 96–45), received November 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6204. A communication from the Chief, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Changes to the Board of Directors of NECA, Inc., Federal-State Joint Board on Universal Service'' (FCC 99–269) (CC Docs. 97–21 and 96–45), received November 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6205. A communication from the Chief, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Federal-State Joint Board on Universal Service'' (FCC 99–306) (CC Doc. 96–45), received November 10, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6206. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''In the Matter of Biennial Review-Streamlining of Mass Media Applications, Rules, and Processes; Policies Regarding Minority and Female Ownership of Mass Media Facilities'' (FCC Docket Nos. 98–43 and 94–149) (FCC 99–267), received November 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6207. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Section 73.202(b), Table of FM Allotments; FM Broadcast Stations: Centerville, TX; Iowa Park, TX and Hunt, TX'' (MM Docket Nos. 99–257, 99–258 and 99–234), received November 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6208. A communication from the Special Assistant to the Bureau Chief, Mass Media Bureau, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Section 73.202(b), Table of FM Allotments; FM Broadcast Stations: Marysville and Hilliard, OH'' (MM Docket Nos. 98–123, RM–9291), received November 8, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6209. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Highly Migratory Species Fisheries; Large Coastal Shark Species; Fishery Reopening; Fishing Season Notification'' (I.D. 052499C), received November 5, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6210. A communication from the Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement Amendment 16B to the Fishery Management Plan for the Reef Fish

Resources of the Gulf of Mexico'' (RIN0648–AL57), received November 5, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6211. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Mystic River, CT (CGD01–99–079)'' (RIN2115–AE47) (1999–0055), received November 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6212. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Housatonic River, CT (CGD01–99–085)'' (RIN2115–AE47) (1999–0056), received November 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6213. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Miles River, MD (CGD05–99–003)'' (RIN2115–AE47) (1999–0058), received November 15, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6214. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Sassafras River, Georgetown, MD (CGD05–99–006)'' (RIN2115–AE47) (1999–0057), received November 15, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6215. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Pequonnock River, CT (CGD01–99–086)'' (RIN2115–AE47) (1999–0063), received November 15, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6216. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Hackensack River, Passaic River, NJ (CGD01–9076)'' (RIN2115–AE47) (1999–0062), received November 15, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6217. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Kennebec River, ME (CGD01–98–174)'' (RIN2115–AE47) (1999–0061), received November 15, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6218. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Illinois River, IL (CGD08–99–014)'' (RIN2115AE47) (1999–0060), received November 15, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6219. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Niantic River, CT (CGD01–99–087)'' (RIN2115–AE47) (1999–0059), received November 15, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6220. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations; Kennebec River, ME (CGD01–99–024)'' (RIN2115–AE47) (1999–0054), received November 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6221. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regatta Regulations; SLR; City of Augusta, GA (CGD07-99-068)'' (RIN2115-AE46) (1999-0042), received November 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6222. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; Sciame Construction Fireworks, East River, Manhattan, NY (CGD01-99-181)'' (RIN2115-AA97) (1999-0068), received November 4, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6223. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations; All Coast Guard and Navy Vessels Involved in Evidence Transport, Narragansett Bay, Davisville, RI (CGD01-99-185)'' (RIN2115-AA97) (1999-0069), received November 15, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6224. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Licensing and Manning for Officers of Towing Vessels (USCG-1999-6224)'' (RIN2115-AF23) (1999-0001), received November 15, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6225. A communication from the Chief, Office of Regulations and Administrative Law, U.S. Coast Guard, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Areas; Strait of Juan de Fuca and Adjacent Waters of Washington; Makah Whale Hunting (CGD-13-98-023)'' (RIN2115-AE84) (1999-0004), received November 15, 1999; to the Committee on Commerce, Science, and Transportation.

EC–6226. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period April 1, 1999 through September 30, 1999; ordered to lie on the table.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–372. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to tobacco subsidies and food-producing agricultural activities; to the Committee on Agriculture, Nutrition, and Forestry.

SENATE RESOLUTION NO. 68

Whereas, For many years, even as our country has wrestled with the costly and harmful effects of tobacco use, Americans have provided financial support for tobacco farming through federal tobacco subsidies. These subsidies include money spent for tobacco crop insurance and price support, in addition to inspection and grading services. While changes in federal agricultural programs and law have significantly reduced money going to tobacco farming and related activities, federal dollars continue to be spent on an endeavor that is harmful to our citizens; and

Whereas, One of the greatest challenges facing humanity in any age is the production of food of sufficient quantity and quality to meet ever-rising needs. Investments in the process of raising crops are among the most important commitments we can make to future generations. Subsidies for food production, research, and marketing hold the potential to touch every citizen in a positive fashion; and

Whereas, With the recent settlement among the states and the tobacco industry, the enormity of the cost tobacco exacts on our society is clear. Any money going to support any aspect of this activity would be far better spent elsewhere; now therefore, be it

Resolved by the Senate, That we memorialize the Congress of the United States to end tobacco subsidies and to redirect this support to food-producing agricultural activities; and be it further

Resolved, That copies of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

REPORT OF COMMITTEE

The following report of committee was submitted:

By Mr. THOMPSON, from the Committee on Governmental Affairs:

Report to accompany the bill (S. 1877) to amend the Federal Report Elimination and Sunset Act of 1995 (Rept. No. 106–223).

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. ROTH for the Committee on Finance:

Deanna Tanner Okun, of Idaho, to be a Member of the United States International Trade Commission for a term expiring June 16, 2008.

(The above nomination was reported with the recommendation that she be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. HATCH for the Committee on the Judiciary:

Kermit Bye, of North Dakota, to be United States Circuit Judge for the Eighth Circuit.

Thomas L. Ambro, of Delaware, to be United States Circuit Judge for the Third Circuit.

George B. Daniels, of New York, to be United States District Judge for the Southern District of New York.

Joel A. Pisano, of New Jersey, to be United States District Judge for the District of New Jersey.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CRAIG:

S. 1937. A bill to amend the Pacific Northwest Electric Power Planning and Conservation Act to provide for sales of electricity by the Bonneville Power Administration to joint operating entities; to the Committee on Energy and Natural Resources.

By Mr. CRAIG (for himself, Mr. THOMAS, Mr. CRAPO, and Mr. BURNS):

S. 1938. A bill to provide for the return of fair and reasonable fees to the Federal Government for the use and occupancy of National Forest System land under the recreation residence program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HELMS:

S. 1939. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for dry cleaning equipment which uses reduced amounts of hazardous substances; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. BROWNBACK, Mr. FEINGOLD, Mr. KENNEDY, Mr. KERRY, Mr. JEFFORDS, and Mr. LAUTENBERG):

S. 1940. A bill to amend the Immigration and Nationality Act to reaffirm the United States' historic commitment to protecting refugees who are fleeing persecution or torture; to the Committee on the Judiciary.

By Mr. DODD (for himself and Mr. DEWINE):

S. 1941. A bill to amend the Federal Fire Prevention and Control Act of 1974 to authorize the Director of the Federal Emergency Management Agency to provide assistance to fire departments and fire prevention organizations for the purpose of protecting the public and firefighting personnel against fire and fire-related hazards; to the Committee on Commerce, Science, and Transportation.

By Mr. JEFFORDS:

S. 1942. A bill to amend the Older Americans Act of 1965 to establish grant programs to provide State pharmacy assistance programs and medication management programs; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. MURRAY:

S. 1943. A bill to provide for an inexpensive book distribution program; to the Committee on Health, Education, Labor, and Pensions.

S. 1944. A bill to provide national challenge grants for innovation in the education of homeless children and youth; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BOND (for himself and Mr. JOHNSON):

S. 1945. A bill to amend title 23, United States Code, to require consideration under the congestion mitigation and air quality improvement program of the extent to which a proposed project or program reduces sulfur or atmospheric carbon emissions, to make renewable fuel projects eligible under that program, and for other purposes; to the Committee on Environment and Public Works.

By Mr. INHOFE (for himself, Ms. SNOWE, Mr. BAUCUS, Mr. WARNER, Mrs. FEINSTEIN, Mr. LIEBERMAN, Mr. WYDEN, Mr. DOMENICI, Mr. MOYNIHAN, Ms. COLLINS, Mr. LAUTENBERG, Mr. KERRY, and Mr. BENNETT):

S. 1946. A bill to amend the National Environmental Education Act to redesignate that Act as the ''John H. Chafee Environmental Education Act'', to establish the John H. Chafee Memorial Fellowship Program, to extend the programs under that Act, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HATCH:

S. 1947. A bill to provide for an assessment of the abuse of and trafficking in gamma hydroxybutyric acid and other controlled substances and drugs, and for other purposes; to the Committee on the Judiciary.

By Mr. LOTT:

S. 1948. A bill to amend the provisions of title 17, United States Code, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite; to the Committee on the Judiciary.

By Mr. LEAHY:

S. 1949. A bill to promote economically sound modernization of electric power generation capacity in the United States, to establish requirements to improve the combustion heat rate efficiency of fossil fuel-fired electric utility generating units, to reduce emissions of mercury, carbon dioxide, nitrogen oxides, and sulfur dioxide, to require that all fossil fuel-fired electric utility generating units operating in the United States meet new source review requirements, to promote the use of clean coal technologies, and to promote alternative energy and clean energy sources such as solar, wind, biomass, and fuel cells; to the Committee on Finance.

By Mr. ENZI (for himself and Mr. THOMAS):

S. 1950. A bill to amend the Mineral Leasing Act of 1920 to ensure the orderly development of coal, coalbed methane, natural gas, and oil in the Powder River Basin, Wyoming and Montana, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SCHUMER (for himself and Ms. COLLINS):

S. 1951. A bill to provide the Secretary of Energy with authority to draw down the Strategic Petroleum Reserve when oil and gas prices in the United States rise sharply because of anticompetitive activity, and to require the President, through the Secretary of Energy, to consult with Congress regarding the sale of oil from the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

By Mr. ABRAHAM:

S. 1952. A bill to amend the Internal Revenue Code of 1986 to provide a simplified method for determining a partner's share of items of a partnership which is a qualified investment club; to the Committee on Finance.

By Mr. KERREY:

S. 1953. A bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to authorize the establishment of a voluntary legal employment authentication program (LEAP) as a successor to the current pilot programs for employment eligibility confirmation; to the Committee on the Judiciary.

By Mr. BINGAMAN (for himself, Mr. THOMPSON, and Mr. KENNEDY):

S. 1954. A bill to establish a compensation program for employees of the Department of Energy, its contractors, subcontractors, and beryllium vendors, who sustained beryllium-related illness due to the performance of their duty; to establish a compensation program for certain workers at the Paducah, Kentucky, gaseous diffusion plant; to establish a pilot program for examining the possible relationship between workplace exposure to radiation and hazardous materials and illnesses or health conditions; and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mrs. HUTCHISON (for herself, Mr. ABRAHAM, Mr. KYL, and Mr. GRAMM):

S. Con. Res. 74. A concurrent resolution recognizing the United States Border Patrol's 75 years of service since its founding; to the Committee on the Judiciary.

By Mr. DURBIN (for himself and Mr. CAMPBELL):

S. Con. Res. 75. A concurrent resolution expressing the strong opposition of Congress to the continued egregious violations of human rights and the lack of progress toward the establishment of democracy and the rule of law in Belarus and calling on President Alexander Lukashenka to engage in negotiations with the representatives of the opposition and to restore the constitutional rights of the Belarusian people; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAIG (for himself, Mr. THOMAS, Mr. CRAPO, and Mr. BURNS):

S. 1938. A bill to provide for the return of fair and reasonable fees to the Federal Government for the use and occupancy of National Forest System land under the recreation residence program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

CABIN USER FEE FAIRNESS ACT OF 1999

Mr. CRAIG. Mr. President, I am introducing legislation today that will set a new course for the Forest Service in determining fees for forest lots on which families and individuals have been authorized to build cabins for seasonal recreation since the early part of this century. I am pleased to have Senators MIKE CRAPO, CRAIG THOMAS, and CONRAD BURNS joining me in sponsoring this legislation, which is a companion bill to H.R. 3327, introduced in the House of Representatives by Congressman GEORGE NETHERCUTT.

In 1915, under the Term Permit Act, Congress set up a program to give families the opportunity to recreate on our public lands through the so-called recreation residence program. Today, 15,000 of these forest cabins remain, providing generation after generation of families and their friends a respite from urban living and an opportunity to use our public lands.

These cabins stand in sharp contrast to many aspects of modern outdoor recreation, yet are an important aspect of the mix recreation opportunities for the American public. While many of us enjoy fast, off-road machines and watercraft or hiking to the backcountry with high-tech gear, others enjoy a relaxing weekend at their cabin in the woods with their family and friends.

The recreation residence programs allows families all across the country an opportunity to use our national forests. This quiet, somewhat uneventful

program continues to produce close bonds and remarkable memories for hundreds of thousands of Americans, but in order to secure the future of the cabin program, this Congress needs to reexamine the basis on which fees are now being determined.

Roughly 20 years ago, the Forest Service saw the need to modernize the regulations under which the cabin program is administered. Acknowledging that the competition for access and use of forest resources has increased dramatically since 1915, both the cabin owners and the agency wanted a formal understanding about the rights and obligations of using and maintaining these structures.

New rules that resulted nearly a decade later reaffirmed the cabins as a valid recreational use of forest land. At the same time, the new policy reflected numerous limitations on use that are felt to be appropriate in order to keep areas of the forest where cabins are located open for recreational use by other forest visitors. Commercial use of the cabins is prohibited, as is year-round occupancy by the owner. Owners are restricted in the size, shape, paint color and presence of other structures or installations on the cabin lot. The only portion of a lot that is controlled by the cabin owner is that portion of the lot that directly underlies the footprint of the cabin itself.

At some locations, the agency has determined a need to remove cabins for a variety of reasons related to ''higher public purposes'' and cabin owners wanted to be certain in the writing of new regulations that a fair process would guide any future decisions about cabin removal. At other locations, some cabins have been destroyed by fire, avalanche or falling trees, and a more reliable process of determining whether such cabins might be rebuilt or relocated was needed. It was determined, therefore, that this recreational program would be tied more closely to the forest planning process.

The question of an appropriate fee to be paid for the opportunity of constructing and maintaining a cabin in the woods was also addressed at that time. Although the agency's policies for administration of the cabin program have, overall, held up well over time, the portion dealing with periodic redetermination of fees proved in the last few years to be a failure.

A base fee was determined 20 years ago by an appraisal of sales of comparable undeveloped lots in the real estate market adjacent to the national forest where a cabin was located. The new policy called for reappraisal of the value of the lot 20 years later—a trigger that led to initiation of the reappraisal process in 1995.

In the meantime, according to the policy, annual adjustments to the base fee would be tracked by the Implicit Price Deflator (IPD), which proved to be a faulty mechanism for this purpose. Annual adjustments to the fee based on movements of the IPD failed entirely to keep track of the booming land values associated with recreation development.

As the results of actual reappraisals on the ground began reaching my office in 1997, it became clear that far more than the inoperative IPD was out of alignment in determining fees for the cabin owners.

At the Pettit Lake tract in Idaho's Sawtooth National Recreation Area, the new base fees skyrocketed into alarming five-digit amounts—so high that a single annual fee was nearly enough money to buy raw land outside the forest and construct a cabin. Meanwhile, the agency's appraisal methodology was resulting in new base fees in South Dakota, in Florida, and in some locations in Colorado that were actually lower than the previous fee.

Very generally speaking, the value of the use of the forest lot is approximately the same for any cabin owner, whether they are tucked into what has become in recent years the Sawtooth National Recreation Area of Idaho, or high in the Sierra Mountain range of California, or in the lowland forests of the southeastern States. Yet Idaho cabin owners are now expected to pay a new average fee of $9,221 each year, while cabin owners in Kentucky will be paying a new average fee of $140.

At the request of the chairman of the House Committee on Agriculture in 1998, the cabin owners named a coalition of leaders of their various national and State cabin owner associations to examine the methodology being used by the Forest Service to determine fees. It became obvious to these laymen that analysis of appraisal methodology and the determination of fees was beyond their grasp, and a prestigious consulting appraiser was retained to guide the cabin owners through their task. The report and recommendations of the coalition's consulting appraiser is available from my office for those who might wish to examine the details.

At the bottom line, it was learned that the Forest Service—contrary to its own policy—was appraising and affixing value to the lots being provided to cabin owners as if this land were fully developed, legally subdivided, fee simple residential land.

In other words, the agency has been capturing the values associated with a variety of structures and services that the homeowners themselves (not the agency) provide. The Forest Service, in setting fees on this basis, has been capturing incremental values assigned by a developer at various stages of development for risk, expectations of profit and other factors.

My goal is to see that the cabin program remains affordable for American families. Consistent with the recommendations of the coalition's consulting appraiser, the methodology for determining fees is directed toward the value of the use to the cabin owner—not what the market would bear, should the Forest Service decide to sell off its assets.

This is highly technical legislation. Its purpose is to send a clear set of instructions to appraisers in the field and a clear set of instructions to forest managers to respect the results of appraisals undertaken to place value on the raw land being offered cabin owners.

I intend to hold hearings on this legislation early in the next session. I urge each of my colleagues to be in contact with cabin owners in their State during the congressional recess. There are more than 15,000 families out there who fear that the long tradition of cabin-based forest recreation is nearing an end because the agencies fee mechanism has made the program unaffordable for all but the wealthy. These cabin owners and I would wholeheartedly welcome the support and cosponsorship of all Senators for this important legislation.

I ask unanimous consent that a copy of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1938

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 ''Fair Cabin User Fee Act of 1999''.

SEC. 2. FINDINGS.

Congress finds that—

(1) the recreation residence program is—

(A) a valid use of forest land and 1 of the multiple uses of the National Forest System; and

(B) an important component of the recreation program of the Forest Service;

(2) cabins located on forest land have provided a unique recreation experience to a large number of cabin owners, their families, and guests each year since Congress authorized the recreation residence program in 1915;

(3) tract associations, cabin owners, their extended families, guests, and others that regularly use and enjoy forest cabin tracts have contributed significantly toward efficient management of the program and the stewardship of forest land;

(4) cabin user fees have traditionally generated income to the Federal Government in amounts significantly greater than the Federal cost of administering the program;

(5) the rights and privileges granted to owners of cabins authorized under the program have steadily diminished while regulatory restrictions and fees charged under the program have steadily increased; and

(6) the current fee determination procedure has been shown to incorrectly reflect market value and value of use.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to ensure, to the maximum extent practicable, that the National Forest System recreation residence program is managed to preserve the opportunity for individual and family-oriented recreation at a reasonable cost; and

(2) to develop and implement a more efficient, cost-effective procedure for determining cabin user fees that better reflects the probable value of that use by the cabin owner, taking into consideration the limitations of the authorization and other relevant market factors.

SEC. 4. DEFINITIONS.

In this Act:

(1) AGENCY.—The term ''agency'' means the Forest Service.

(2) AUTHORIZATION.—The term ''authorization'' means a special use permit for the use and occupancy of National Forest System land by a cabin owner under the authority of the program.

(3) BASE CABIN USER FEE.—The term ''base cabin user fee'' means the initial fee for an authorization that results from the appraisal of a lot in accordance with sections 6 and 7.

(4) CABIN.—The term ''cabin'' means a privately built and owned structure authorized for use and occupancy on National Forest System land.

(5) CABIN USER FEE.—The term ''cabin user fee'' means a special use fee paid annually by a cabin owner to the Secretary in accordance with this Act.

(6) CABIN OWNER.—The term ''cabin owner'' means—

(A) a person authorized by the agency to use and to occupy a cabin on National Forest System land; and

(B) an heir or assign of such a person.

(7) CARETAKER CABIN.—The term ''caretaker cabin'' means a caretaker residence occupied in limited cases in which caretaker services are necessary to maintain the security of a tract.

(8) CENTER.—The term ''Center'' means the Federal Center for Dispute Resolution of the American Arbitration Association.

(9) CURRENT CABIN USER FEE.—The term ''current cabin user fee'' means the most recent cabin user fee that results from an annual adjustment to the base cabin user fee in accordance with section 8.

(10) LOT.—The term ''lot'' means a parcel of land of the National Forest System on which a cabin owner is authorized to build, use, occupy, and maintain a cabin and related improvements.

(11) PROGRAM.—The term ''program'' means the recreation residence program established under the Act of March 4, 1915 (38 Stat. 1101, chapter 144).

(12) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture, acting through the Chief of the Forest Service.

(13) TRACT.—The term ''tract'' means an established location within a National Forest containing 1 or more cabins authorized in accordance with the program.

(14) TRACT ASSOCIATION.—The term ''tract association'' means a cabin owner association in which all cabin owners within a tract are eligible for membership.

SEC. 5. ADMINISTRATION OF RECREATION RESIDENCE PROGRAM.

(a) IN GENERAL.—The Secretary shall ensure, to the maximum extent practicable, that the basis and procedure for calculating cabin user fees results in a reasonable and fair fee for an authorization that reflects the probable value of the use and occupancy of a lot to the cabin owner in accordance with subsection (b).

(b) DETERMINATION OF VALUE.—The value of the use and occupancy of a lot referred to in subsection (a)—

(1) shall not be equivalent to a rental fee of the lot; and

(2) shall reflect regional economic influences, as determined by an appraisal of the value of use of the National Forest in which the lot is located.

SEC. 6. APPRAISALS.

(a) REQUIREMENTS FOR CONDUCTING APPRAISALS.—In implementing and conducting an appraisal process for determining cabin user fees, the Secretary shall—

(1) establish an appraisal process to determine the value of the fee simple estate of a typical lot or lots within a tract, with adjustments to reflect limitations arising from the authorization and special use permit;

(2) enter into a contract with an appropriate professional organization for the development of specific appraisal guidelines in accordance with subsection (b), subject to public comment and congressional review;

(3) require that an appraisal be performed by a State-certified general real estate appraiser, selected by the Secretary and licensed to practice in the State in which the lot is located;

(4) provide the appraiser with—

(A) appraisal guidelines developed in accordance with this Act; and

(B) a copy of the special use permit associated with the typical lot to be appraised, with an instruction to the appraiser to consider any prohibitions or limitations contained in the authorization;

(5) notwithstanding any other provision of law, require the appraiser to coordinate the assignment closely with affected parties by seeking advice, cooperation, and information from cabin owners and tract associations;

(6) require that the appraiser perform the appraisal in compliance with—

(A) the most current edition of the Uniform Standards of Professional Appraisal Practice on the date of the appraisal;

(B) the most current edition of the Uniform Appraisal Standards for Federal Land Acquisitions on the date of the appraisal; and

(C) the specific appraisal guidelines developed in accordance with this Act;

(7) require that the appraisal report be a self-contained report (as defined by the Uniform Standards of Professional Appraisal Practice);

(8) require that the appraisal report comply with the reporting guidelines established by the Uniform Appraisal Standards for Federal Land Acquisitions; and

(9) before accepting any appraisal, conduct a review of the appraisal to ensure that the guidelines made available to the appraiser have been followed and that the appraised values are properly supported.

(b) SPECIFIC APPRAISAL GUIDELINES.—In the development of specific appraisal guidelines in accordance with paragraph (a)(2), the instructions to an appraiser shall require, at a minimum, the following:

(1) APPRAISAL OF A TYPICAL LOT.—

(A) IN GENERAL.—In conducting an appraisal under this paragraph, the appraiser shall appraise a typical lot or lots within a tract that are selected by the cabin owners and the agency in a manner consistent with the policy of the program.

(B) APPRAISAL.—In appraising a typical lot or lots within a tract, the appraiser shall—

(i) consult with affected cabin owners; and

(ii) appraise the typical lot or lots selected for purposes of comparison with other lots or groups of lots in the tract having similar value characteristics (rather than appraising each individual lot).

(B) ESTIMATE OF MARKET VALUE OF TYPICAL LOT.—

(i) IN GENERAL.—The appraiser shall estimate the market value of a typical lot as a parcel of undeveloped, raw land that has been made available for use and occupancy by the cabin owner on a seasonal or periodic basis.

(ii) NO EQUIVALENCE TO LEGALLY SUBDIVIDED LOT.—The appraiser shall not appraise the typical lot as being equivalent to a legally subdivided lot.

(2) REQUIREMENT FOR ANALYSIS OF COMPARABLE SALES.—The appraisal shall be based on a prioritized analysis of 1 or more categories of sales of comparable land as follows:

(A) LARGER PARCELS.—Sales of larger, privately-owned, and preferably unimproved parcels of rural land, generally similar in size to the tract being examined, shall be given the most weight in the analysis.

(B) SMALLER PARCELS.—Sales of smaller, privately-owned, and preferably unimproved parcels of rural land that are not part of an established subdivision shall be given secondary weight in the analysis.

(C) MAPPED AND RECORDED PARCELS.—Sales of privately-owned parcels in a mapped and recorded rural subdivision shall be given the least weight in the analysis.

(3) EXCEPTION FOR CERTAIN SALES OF LAND.—In conducting an analysis under paragraph (2), the appraiser shall select sales of comparable land that are outside the area of influence of—

(A) land affected by urban growth boundaries;

(B) land for which a government or institution holds a conservation or recreational easement; or

(C) land designated for conservation or recreational purposes by Congress, a State, or a political subdivision of a State.

(4) ADJUSTMENTS FOR TYPICAL VALUE INFLUENCES.—

(A) IN GENERAL.—The appraiser shall consider and adjust the price of sales of comparable land for all typical value influences described in subparagraph (B).

(B) VALUE INFLUENCES.—The typical value influences referred to in subparagraph (A) include—

(i) differences in the locations of the parcels;

(ii) accessibility, including limitations on access attributable to—

(I) weather;

(II) the condition of roads or trails; or

(III) other factors;

(iii) the presence of marketable timber;

(iv) limitations on, or the absence of, services such as law enforcement, fire control, road maintenance, or snow plowing;

(v) the condition and regulatory compliance of any site improvements; and

(vi) any other typical value influences described in standard appraisal literature.

(5) ADJUSTMENTS FOR RESTRICTIONS ON USE.—In evaluating the sale of a comparable fee simple parcel, an adjustment to the sale price of the parcel shall be made to reflect the influence of prohibitions or limitations on use or benefits imposed by the agency that affect the value of the subject cabin lot, including—

(A) any prohibition against year-round use and occupancy or any other restriction that limits or reduces the type or amount of cabin use and occupancy;

(B) any limitation on the right of the cabin owner to sell, lease, or rent the cabin without restrictions imposed by the Secretary;

(C) any limitation on, or prohibition against, improvements to the lot, such as remodeling or enlargement of the cabin, construction of additional structures, landscaping, signs, fencing, clothes drying lines, mail boxes, swimming pools, or other recreational facilities; and

(D) any limitation on, or prohibition against, use of the lot for placement of amenities such as playground equipment, domestic livestock, recreational vehicles, or boats.

(6) ADJUSTMENTS TO SALES OF COMPARABLE PARCELS.—

(A) IN GENERAL.—

(i) UTILITIES PROVIDED BY AGENCY.—Only utilities (such as water, sewer, electricity, or telephone) or access roads or trails that are clearly established as of the date of the appraisal as having been provided and maintained by the agency at a lot shall be included in the appraisal.

(ii) FEATURES PROVIDED BY CABIN OWNER.—All cabin facilities, decks, docks, patios, and

other nonnatural features (including utilities or access)—

(I) shall be presumed to have been provided by, or funded by, the cabin owner; and

(II) shall be excluded from the appraisal by adjusting any comparable sales with the nonnatural features referred to in subparagraph (B)(ii).

(iii) WITHDRAWAL OF UTILITY OR ACCESS BY AGENCY.—If, during the term of an authorization, the agency makes a substantial and materially adverse change in the provision or maintenance of any utility or access, the cabin owner shall have the right to request and obtain a new determination of the base cabin user fee at the expense of the agency.

(B) ADJUSTMENT FOR IMPROVEMENTS.—

(i) IN GENERAL.—The appraiser shall consider and adjust the price of each sale of a comparable parcel for all nonnatural features referred to in subparagraph (A)(ii) that—

(I) are present at, or add value to, the parcel; but

(II) are not present at the lot being appraised or not included in the appraisal under subparagraph (A).

(ii) ADJUSTMENTS.—An adjustment to the price of a parcel sold under this subparagraph shall include allowances for matters such as—

(I) depreciated current replacement costs of installing nonnatural features referred to in clause (i) at the typical lot being appraised, including an allowance for entrepreneurial profit and overhead;

(II) likely construction difficulties for nonnatural features referred to in clause (i) at the lot being appraised; and

(III) the deduction in price that would be taken in the market as a risk allowance if—

(aa) a parcel does not have adequate access or adequate sewer or water systems; and

(bb) there is a risk of failure or material cost overruns in attempting to provide the systems referred to in item (aa).

(C) REAPPRAISAL FOR AND RECALCULATION OF BASE CABIN USER FEE.—Periodically, but not less often than once every 10 years, the Secretary shall recalculate the base cabin user fee (including conducting any reappraisal required to recalculate the base cabin user fee).

SEC. 7. CABIN USER FEES.

(a) IN GENERAL.—The Secretary shall establish the cabin user fee as the amount that is equal to 5 percent of the value of the lot, as determined in accordance with section 6, reflecting an adjustment to the market rate of return based solely on—

(1) the limited term of the authorization;

(2) the absence of significant property rights normally attached to fee simple ownership; and

(3) the public right of access to, and use of, any open portion of the lot on which the cabin or other enclosed improvements are not located.

(b) FEE FOR CARETAKER RESIDENCES.—The base cabin user fee for a lot on which a caretaker residence is located shall not be greater than the base cabin user fee charged for the authorized use of a similar typical lot in the tract.

(c) ANNUAL CABIN USER FEE IN THE EVENT OF DETERMINATION NOT TO REISSUE AUTHORIZATION.—If the Secretary determines that an authorization should not be reissued at the end of a term, the Secretary shall—

(1) establish as the new base cabin user fee for the remaining term of the authorization the amount charged as the cabin user fee in the year that was 10 years before the year in which the authorization expires; and

(2) calculate the current cabin user fee for each of the remaining 9 years of the term of the authorization by multiplying—

(i) 1/10 of the new base cabin user fee; by

(ii) the number of years remaining in the term of the authorization after the year for which the cabin user fee is being calculated.

(d) ANNUAL CABIN USER FEE IN EVENT OF CHANGED CONDITIONS.—If a review of a decision to convert a lot to an alternative public use indicates that the continuation of the authorization for use and occupancy of the cabin by the cabin owner is warranted, and the decision is subsequently reversed, the Secretary may require the cabin owner to pay any portion of annual cabin user fees, as calculated in accordance with subsection (d), that were forgone as a result of the expectation of termination of use and occupancy of the cabin by the cabin owner.

(e) TERMINATION OF FEE OBLIGATION IN LOSS RESULTING FROM ACTS OF GOD OR CATASTROPHIC EVENTS.—On a determination by the agency that, due to an act of God or a catastrophic event, a lot cannot be safely occupied and that the authorization for the lot should accordingly be terminated, the fee obligation of the cabin owner shall terminate effective on the date of the occurrence of the act or event.

SEC. 8. ANNUAL ADJUSTMENT OF CABIN USER FEE.

(a) IN GENERAL.—The Secretary shall adjust the cabin user fee annually, using a rolling 5-year average of a published price index in accordance with subsection (b) or (c) that reports changes in rural or similar land values in the State, county, or market area in which the lot is located.

(b) INITIAL INDEX.—

(1) IN GENERAL.—For the period of 10 years beginning on the date of enactment of this Act, the Secretary shall use changes in agricultural land prices in the appropriate State or county, as reported in the Index of Agricultural Land Prices published by the Department of Agriculture, to determine the annual adjustment to the cabin user fee in accordance with subsections (a) and (d).

(2) STATEWIDE CHANGES.—In determining the annual adjustment to the cabin user fee for an authorization located in a county in which agricultural land prices are influenced by the factors described in section 6(b)(3), the Secretary shall use average statewide changes in the State in which the lot is located.

(c) NEW INDEX.—

(1) IN GENERAL.—Not later than 10 years after the date of enactment of this Act, the Secretary may select and use an index other than the index described in subsection (b)(2) to adjust a cabin user fee if the Secretary determines that a different index better reflects change in the value of a lot over time.

(2) SELECTION PROCESS.—Before selecting a new index, the Secretary shall—

(A) solicit and consider comments from the public; and

(B) not later than 60 days before the date on which the Secretary makes a final index selection, submit any proposed selection of a new index to—

(i) the Committee on Resources of the House of Representatives; and

(ii) the Committee on Energy and Natural Resources of the Senate.

(d) LIMITATION.—In calculating an annual adjustment to the base cabin user fee, the Secretary shall—

(1) limit any annual fee adjustment to an amount that is not more than 5 percent per year when the change in agricultural land values exceeds 5 percent in any 1 year; and

(2) apply the amount of any adjustment that exceeds 5 percent to the annual fee payment for the next year in which the change in the index factor is less than 5 percent.

SEC. 9. PAYMENT OF CABIN USER FEES.

(a) DUE DATE FOR PAYMENT OF FEES.—A cabin user fee shall be paid or prepaid annually by the cabin owner on a monthly, quarterly, annual, or other schedule, as determined by the Secretary.

(b) PAYMENT OF EQUAL OR LESSER FEE.—If, in accordance with section 7, the Secretary determines that the amount of a new base cabin user fee is equal to or less than the current base cabin user fee, the Secretary shall require payment of the new base cabin user fee by the cabin owner in accordance with subsection (a).

(c) PAYMENT OF GREATER FEE.—If, in accordance with section 7, the Secretary determines that the amount of a new base cabin user fee is greater than the current base cabin user fee, the Secretary shall—

(1) require full payment of the new base cabin user fee in the first year following completion of the fee determination procedure if the increase in the amount of the new base cabin user fee is not more than 100 percent of the most recently paid cabin user fee; or

(2) phase in the increase over the current cabin user fee in approximately equal increments over 3 years if the increase in the amount of the new base cabin user fee is greater than 100 percent of the most recently paid base cabin user fee.

(d) REQUIREMENT FOR PAYMENT DURING ARBITRATION, APPEAL, OR JUDICIAL REVIEW.—If arbitration, an appeal, or judicial review concerning a cabin user fee is brought in accordance with section 11 or 12, the Secretary shall—

(1) suspend annual payment by the cabin owner of any increase in the cabin user fee, pending completion of the arbitration, appeal, or judicial review; and

(2) make any adjustments, as necessary, that result from the findings of the arbitration, appeal, or judicial review by providing to the cabin owner—

(A)(i) a credit toward future cabin user fee payments; or

(ii) a refund for any overpayment of the cabin user fee; and

(B) a supplemental billing for any additional amount of the cabin user fee that is due.

SEC. 10. RIGHT OF SECOND APPRAISAL.

(a) RIGHT OF SECOND APPRAISAL.—On receipt of notice from the Secretary of the determination of a new base cabin user fee, the cabin owner—

(1) not later than 60 days after the date on which the notice is received, shall notify the Secretary of the intent of the cabin owner to obtain a second appraisal; and

(2) may obtain, within 1 year following the date of receipt of the notice under this subsection, at the expense of the cabin owner, a second appraisal of the typical lot on which the initial appraisal was conducted.

(b) CONDUCT OF SECOND APPRAISAL.—In conducting a second appraisal, the appraiser selected by the cabin owner shall—

(1) consider all relevant factors in accordance with this Act (including guidelines developed under section 6(a)(2)); and

(2) notify the Secretary of any material differences of fact or opinion between the initial appraisal conducted by the agency and the second appraisal.

(c) REQUEST FOR RECONSIDERATION OF BASE CABIN USER FEE.—A cabin owner shall submit to the Secretary any request for reconsideration of the base cabin user fee, based on the results of the second appraisal, not later than 60 days after the receipt of the report for a second appraisal.

(d) RECONSIDERATION OF BASE CABIN USER FEE.—On receipt of a request from the cabin owner under subsection (c) for reconsideration of a base cabin user fee, not later than 60 days after the date of receipt of the request, the Secretary shall—

(1) review the initial appraisal of the agency;

(2) review the results and commentary from the second appraisal;

(3) determine a new base cabin user fee in an amount that is—

(A) equal to the fee determined by the initial or the second appraisal; or

(B) within the range of values, if any, between the initial and second appraisals; and

(4) notify the cabin owner of the amount of the new base cabin fee.

SEC. 11. RIGHT OF ARBITRATION.

(a) IN GENERAL.—

(1) REQUEST FOR ARBITRATION.—Not later than 30 days after the receipt of notice of a new base cabin fee under section 10(d)(4), the tract association may request arbitration if a cabin owner in the tract and the Secretary are unable to reach agreement on the amount of the base cabin user fee determined in accordance with section 10.

(2) IDENTIFICATION OF THIRD-PARTY NEUTRALS.—If arbitration is requested under paragraph (1), the Secretary shall promptly request the Center to develop a list of the names of not fewer than 20 appraisers and 10 attorneys who possess appropriate training and experience in valuations of land and interest in land to serve as qualified third-party neutrals.

(b) ARBITRATION.—Not later than 30 days after the receipt of a request from the tract association for arbitration, the Secretary shall—

(1) notify the Center of the request; and

(2) request the Center to provide to the Secretary and the tract association, within 15 days—

(A) instructions related to arbitration procedures; and

(B) the list of qualified third-party neutrals described in subsection (a)(2).

(c) ARBITRATION PANEL.—

(1) IN GENERAL.—Not later than 15 days after the receipt of the list described in subsection (a)(2), the Secretary and the tract association may each recommend the names of 2 appraisers and 1 attorney from the list for consideration in the selection of an arbitration panel by the Center.

(2) AVAILABILITY OF LIST.—The Secretary and the tract association shall disclose to each other the names of third-party neutrals recommended under paragraph (1).

(3) OPTION TO ELIMINATE RECOMMENDED NEUTRALS.—The Secretary and the tract association may each peremptorily eliminate from consideration for the arbitration panel 1 third-party neutral recommended under paragraph (1).

(4) SELECTION BY CENTER.—From the third-party neutrals recommended to the Center under paragraph (1) that are not eliminated from consideration under paragraph (3), the Center shall select and retain an arbitration panel consisting of 2 appraisers and 1 attorney.

(5) NOTIFICATION OF ESTABLISHMENT.—Not later than 5 days after the selection of members of the arbitration panel, the Center shall notify the Secretary and the tract association of the establishment of the arbitration panel.

(d) ARBITRATION PROCEDURE.—

(1) SUBMISSION OF INFORMATION.—Not later than 30 days after notification by the Center of the establishment of the arbitration panel under subsection (c)(3), each party shall submit to the arbitration panel—

(A) the appraisal report of each party, including comments, if any, of material differences of fact or opinion related to the initial appraisal or the second appraisal;

(B) a copy of the authorization associated with any typical lot that was subject to appraisal;

(C) a copy of this Act; and

(D) a copy of appraisal guidelines developed in accordance with section 6(a)(2).

(2) HEARING OR FIELD INSPECTION.—On agreement of both parties, the arbitration may be conducted without a hearing or a field inspection.

(3) SCHEDULE FOR DECISION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not later than 60 days after the receipt of all materials described in paragraph (1), the arbitration panel shall prepare and forward to the Secretary a written advisory decision on the appropriate amount of the base cabin user fee.

(B) EXTENSION.—If the arbitration panel or the parties to the arbitration determine that a hearing or field inspection is necessary, the date for submission of the advisory decision under subparagraph (A) shall be extended for—

(i) not more than 30 days; or

(ii) in the case of difficult or hazardous road or weather conditions, such an additional period of time as is necessary to complete the inspection.

(4) DETERMINATION OF RECOMMENDED BASE CABIN USER FEE.—The base cabin user fee recommended by the arbitration panel shall fall within the range of values, if any, between the initial and second appraisals submitted to the arbitration panel by the parties.

(e) ADOPTION OF RECOMMENDED BASE CABIN USER FEE.—

(1) IN GENERAL.—Not later than 45 days after the receipt of the recommendation by the arbitration panel, the Secretary shall make a determination to adopt or reject the recommended base cabin user fee.

(2) NOTICE TO TRACT ASSOCIATION.—Not later than 15 days after making the determination under paragraph (1), the Secretary shall provide notice of the determination to the tract association.

(f) NO ADMISSION OF FACT OR RECOMMENDATION.—Neither the fact that arbitration in accordance with this section has occurred, nor the recommendation of the arbitration panel, shall be admissible in any court or administrative proceeding.

(g) COSTS OF ARBITRATION.—

(1) FEES.—

(A) IN GENERAL.—In addition to amounts collected under paragraph (2), the Center may charge a reasonable fee to each party to an arbitration under this Act for the provision of arbitration services.

(B) TRANSFER.—Fees collected under this paragraph shall be transferred to the Secretary for use in the administration of the program without further Act of appropriation.

(2) COST SHARING.—The agency and the tract association shall each pay 50 percent of the costs incurred by the Center in establishing and administering an arbitration in accordance with this section, unless the arbitration panel recommends that either the agency or the tract association bear the entire cost of establishing and administering the arbitration.

(h) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS FOR INITIAL COSTS.—There is authorized to be appropriated to the agency for the initial costs of establishing and administering the program not to exceed $15,000.

(2) ARBITRATION FEES.—Any amounts exceeding the amount authorized by paragraph (1) that are required for the administration of the program shall be derived from arbitration fees charged under subsection (g)(1).

SEC. 12. RIGHT OF APPEAL AND JUDICIAL REVIEW.

(a) RIGHTS OF APPEAL.—Notwithstanding any action of a cabin owner to exercise rights in accordance with section 10 or 11, the Secretary shall by regulation grant the cabin owner the right to an administrative appeal of the determination of a new base cabin user fee.

(b) JUDICIAL REVIEW.—A cabin owner that is adversely affected by a final decision of the Secretary under this Act may commence a civil action in United States district court.

SEC. 13. CONSISTENCY WITH OTHER LAW AND RIGHTS.

(a) CONSISTENCY WITH RIGHTS OF THE UNITED STATES.—Nothing in this Act limits or restricts any right, title, or interest of the United States in or to any land or resource.

(b) SPECIAL RULE FOR ALASKA.—In determining a cabin user fee in the State of Alaska, the Secretary shall not establish or impose a cabin fee or a condition affecting a cabin fee that is inconsistent with the requirements under section 1303(d) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3193(d)).

SEC. 14. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations to implement this Act.

SEC. 15. TRANSITION PROVISIONS.

(a) IN GENERAL.—On enactment of this Act, the Secretary shall—

(1) suspend appraisal activities related to existing authorizations until new rules, policies, and procedures are promulgated in accordance with this Act; and

(2) temporarily charge an annual cabin user fee for each lot that is—

(A) an amount equal to the cabin user fee for the lot that was in effect on September 30, 1995, adjusted by application of the Implicit Price Deflator–Gross National Product Index, if no appraisal of the lot on which the cabin is located was completed after that date and before the date of enactment of this Act;

(B) an amount that is not more than 100 percent greater than the cabin user fee in effect on September 30, 1995, adjusted by application of the Implicit Price Deflator–Gross National Product Index prior to reappraisal, if an appraisal conducted after that date but before the date of enactment of this Act resulted in the increase; or

(C) the cabin user fee in effect on the date of enactment of this Act, if an appraisal conducted after September 30, 1995, including adjustments resulting from application of the Implicit Price Deflator–Gross National Product Index before the date of enactment of this Act, resulted a base cabin user fee that is not greater than the fee in effect before the appraisal.

(b) CONDUCT OF APPRAISALS UNDER NEW LAW.—On publication of new rules, policies, and procedures under this Act, the Secretary shall carry out any appraisals of lots and determinations of fees that were not completed between September 30, 1995, and the date of enactment of this Act.

(c) REQUEST FOR NEW APPRAISAL UNDER NEW LAW.—Not later than 2 years after the promulgation of final regulations and policies and the development of appraisal guidelines in accordance with section 6(a)(2), a cabin owner whose base cabin user fee was adjusted subject to an appraisal completed after September 30, 1995, but before the date of enactment of this Act, may request that the Secretary conduct a new appraisal and determine a new fee in accordance with this Act.

(d) CONDUCT OF NEW APPRAISAL.—On receiving a request under subsection (c), the Secretary shall conduct, and bear all costs incurred in conducting, a new appraisal and fee determination in accordance with this Act.

(e) ASSUMPTION OF NEW BASE CABIN USER FEE.—In the absence of a request under subsection (c) for a new appraisal and fee determination from a cabin owner whose cabin

user fee was determined as a result of an appraisal conducted after September 30, 1995, but before the date of enactment of this Act, the Secretary may consider the base cabin user fee resulting from the appraisal conducted between September 30, 1995, and the date of enactment of this Act to be the base cabin user fee that complies with the transition provisions of this Act.

(f) TRANSITIONAL CABIN USER FEE OBLIGATION.—

(1) IN GENERAL.—In determining the liability of the cabin owner for payment of fees for the period of time between the date of enactment of this Act and the determination of a base cabin user fee in accordance with this Act, the Secretary shall—

(A) require the cabin owner to remit any balance owed for any underpayment of an annual cabin user fee; or

(B) if an overpayment of a cabin user fee has occurred, credit the cabin owner, or an heir or assign of the cabin owner, toward future cabin user fee obligations.

(2) BILLING.—The agency shall bill a cabin owner for amounts determined to be owed under paragraph (1)(A) in approximately equal increments over 3 years.

By Mr. LEAHY (for himself, Mr. BROWNBACK, Mr. FEINGOLD, Mr. KENNEDY, Mr. KERRY, Mr. JEFFORDS, and Mr. LAUTENBERG):

S. 1940. A bill to amend the Immigration and Nationality Act to reaffirm the United States' historic commitment to protecting refugees who are fleeing persecution or torture; to the Committee on the Judiciary.

THE REFUGEE PROTECTION ACT

Mr. LEAHY. Mr. President, today Senators BROWNBACK, FEINGOLD, KENNEDY, KERRY, JEFFORDS, and I are introducing the Refugee Protection Act of 1999, a bill to limit and reform the expedited removal system currently operating in our ports of entry.

In 1996, I introduced an amendment that would have only authorized the use of expedited removal at times of immigration emergencies. The bill I introduce today—with the cosponsorship of two Republican and three Democratic Senators—is modeled on that proposal. That amendment passed the Senate with bipartisan support, but was omitted from the bill that was reported out of a partisan, closed conference. As a result, expedited removal took effect on April 1, 1997. America's historic reputation as a beacon for refugees has suffered as a consequence.

Expedited removal allows INS inspections officers summarily to remove aliens who arrive in the United States without travel documents, or even with facially valid travel documents that the officers merely suspect are fraudulent, unless the aliens utter the magic words ''political asylum'' upon their first meeting with American immigration authorities. This policy is fundamentally unwise and unfair, both in theory and in practice.

First, this policy ignores the fact that many deserving asylum applicants are forced to travel without papers. For example, victims of repressive governments often find themselves forced to flee their homelands at a moment's notice, without time or means to acquire proper documentation. Or a government may systematically strip refugees of their documentation, as we saw Serb soldiers do in Kosovo earlier this year.

Second, expedited removal places an undue burden on refugees, and places too much authority in the hands of low-level INS officers. Refugees typically arrive at our borders ragged and tired from their ordeals, and often with little or no knowledge of English. Our policy forces them to undergo a secondary inspection interview with a low-level INS officer who can deport them on the spot, subject only to a supervisor's approval. By law, anyone who indicates a fear of persecution or requests asylum during this interview is to be referred for an interview with an asylum officer. But no safeguards exist to guarantee that this happens, and the secondary inspection interviews take place behind closed doors with no witnesses. Indeed, this interview often becomes unduly confrontation and intimidating. As the Lawyers Committee for Human Rights has documented, refugees are detained for as long as 36 hours, are deprived of food and water, and are often shackled. If they are lucky, they will be provided with an interpreter who speaks their language. If they are unlucky, they will receive no interpreter at all, or an interpreter who works for the airline owned by the government that they claim is persecuting them. Such a system is a betrayal of our ideals, and is already producing a human cost.

Indeed, only a few years into this new regime, there are extraordinary troubling stories of bona fide refugees who were turned away unjustly at our borders. I will talk about two such refugees today.

''Dem'' (a pseudonym) was a 21-year-old ethnic Albanian student in Kosovo. In October 1998, Serbian police seized him and tortured him for 10 days, accusing him of terrorism and threatening to kill his family. Immediately after this experience, Dem fled Kosovo, without travel documents. He traveled through Albania to Italy, where he purchased a Slovenian passport. In January of this year, he flew via Mexico City to California, hoping to find refuge in the United States.

Dem's hopes were not realized. The INS referred him for a secondary inspection interview and provided for a Serbian translator to participate by telephone. Since Dem could speak only Albanian, the interpreter was useless. Instead of finding an interpreter who could speak Albanian, the INS officers simply closed Dem's case, handcuffed his hands behind his back and put him on a plane back to Mexico City. In other words, Dem—a victim of an ethnic conflict that was already front page news in America's newspapers—was removed from the United States without ever being asked in a language he could understand whether he was afraid to return to Kosovo. Luckily, Dem succeeded in a second attempt to enter the United States, has since been found to have a credible fear of persecution, and is now awaiting an asylum hearing. One can only wonder how many refugees in Dem's position never receive such a second chance.

While Dem was arriving in Los Angeles this January, a Tamil from Sri Lanka named Arumugam Thevakumar arrived at JFK Airport in New York seeking asylum. Mr. Thevakumar had escaped from Sri Lanka and its bloody civil war, but only after being persecuted by the army because he is a Tamil. When he had his secondary inspection interview, he told the interpreter that he was a refugee and sought asylum. The translator laughed and said that he was unable to translate Mr. Thevakumar's request into English. In addition to battling a language barrier and an uncooperative translator, Mr. Thevakumar's ability to convince the INS of his sincerity was further handicapped by the fact that he was handcuffed and shackled for significant portions of the interview.

Following his interview, Mr. Thevakumar was briefly detained and was allowed to telephone a cousin, who arranged for a lawyer. The lawyer contacted the INS to clarify that Mr. Thevakumar wanted to apply for asylum. But the INS sent Mr. Thevakumar back to Istanbul, where his flight to New York had originated, without affording him even the opportunity to show that he was deserving of asylum. Indeed, the INS faulted him for not making his intention to apply for asylum clear during his secondary inspection interview.

Mr. Thevakumar's ordeal did not end there. When he landed in Turkey, he was jailed for four days by immigration officials, who beat and interrogated him before handing him over to regular police. When he was finally released by the police, he was referred to a United Nations office in Ankara, halfway across the country from Istanbul. After 15 days of travel wearing clothes that were completely unsuitable for the Turkish winter, he finally arrived at the U.N. office and requested refugee status and asked not to be sent back to Sri Lanka. He is currently living in a Red Cross facility in Turkey.

These stories—just two of the many stories demonstrating the human cost of expedited removal—go a long way toward showing the inhumanity of the new immigration regime that Congress imposed in 1996. But refugees are not the only people affected by expedited removal. Human rights groups have also documented numerous cases where people traveling to the United States on business, with proper travel documents, have been removed based on the so-called ''sixth sense'' of a low-level INS officer who suspected that their facially valid documents were fraudulent. In other words, the damage done by expedited removal also threatens the increasingly international American economy—if businesspeople from

around the world are treated disrespectfully at our ports of entry, they are likely to take their business elsewhere.

But perhaps the most distressing part of expedited removal is that there is no way for us to know how many deserving refugees have been excluded. Because secondary inspection interviews are conducted in secret, we typically only learn about mistakes when refugees manage to make it back to the U.S. a second time, like Dem, or when they are deported to a third country they passed through on their way to the U.S., like Mr. Thevakumar. This uncertainty should lead us to be especially wary of continuing this failed experiment.

As I said, my bill would limit the use of expedited removal to times of immigration emergencies, defined as the arrival or imminent arrival of aliens that would substantially exceed the INS' ability to control our borders. The bill gives the Attorney General the discretion to declare an emergency migration situation, and the declaration is good for 90 days. During those 90 days, the INS would be authorized to use expedited removal. The Attorney General is given the power to extend the declaration for further periods of 90 days, in consultation with the House and Senate Judiciary Committees. s

This framework allows the government to take extraordinary steps when a true immigration emergency threatens our ability to patrol our borders. At the same time, it recognizes that expedited removal is an extraordinary step, and is not an appropriate measure under ordinary circumstances.

This bill also provides safeguards that will ensure that refugees are assured of some due process rights, even during immigration emergencies. First, aliens would be given the right to have an immigration judge review a removal order, and would have the right both to speak before the immigration judge on their own behalf and to be represented at the hearing at their own expense. To make these rights meaningful, immigration officers would be required to inform aliens of their rights before they are removed or withdraw their application to enter the country. This provision takes away from low-level INS officers the unilateral power to remove an alien from the United States.

Second, expedited removal will not apply to aliens who have fled from a country that engages in serious human rights violations. The Attorney General, in consultation with the Assistant Secretary of State for Democracy, Human Rights, and Labor, will develop and maintain a list of such countries. This will help ensure that even during an immigration emergency, we will provide added protection for many of our most vulnerable refugees.

Third, this bill reforms the procedures used to determine whether an applicant who seeks asylum has a credible fear of persecution. If an asylum officer determines that an applicant does not have a credible fear of persecution, the applicant will now have a right to a prompt review by an immigration judge. The applicant will have the right to appear at that review hearing and to be represented, at the applicant's expense. In addition to providing procedural guarantees, the bill also redefines ''credible fear of persecution'' as a claim for asylum that is not clearly fraudulent and is related to the criteria for granting asylum. In combination, these changes will make it easier for aliens requesting asylum in the United States to receive an appropriate asylum hearing before an immigrant judge.

Fourth, the bill clarifies that the Attorney General is not obligated to detain asylum applicants while their claims are pending. Asylum seekers are not criminals and they do not deserve to be imprisoned or detained against their will. There may be cases where detention is appropriate, and this bill allows for such cases, but I believe that that power should only be used in very rare cases. After all, these applicants have by definition demonstrated a credible fear of persecution. Moreover, detaining asylum applicants imposes a significant burden on the taxpayers, who of course must foot the bill for the detention. This bill also gives the Attorney General the ability to release an asylum applicant from detention pending a final determination of credible fear of persecution.

Finally, this Refugee Protection Act also addresses a few other problems that have arisen under the restrictive immigration laws Congress passed in 1996. First, it gives aliens the opportunity to demonstrate good cause for filing for asylum after the one-year time limit for claims has expired. By definition, worthy asylum applicants have arrived in the United States following traumatic experiences abroad. They often must spend their first months here learning the language and adjusting to a culture that in many cases is extraordinarily different from the one they know. Therefore, although I can understand the desire to have asylum seekers submit timely applications, we must apply the one-year rule with some discretion and common sense. Indeed, when the Senate passed the 1996 immigration law, it contained a broad ''good cause'' exception that did not survive to become part of the final legislation. The Senate should take up this issue again; we were right in 1996, and the need is still there today.

In a similar vein, the bill allows asylum applicants whose claims have been rejected to submit a second application where they can show good cause. No one wants to allow aliens to submit repeated applications and drain the resources of our INS officers and immigration courts. But there are exceptional cases where a second application is justified, beyond the ''changed circumstances'' exception that exists under current law. For example, extraordinarily worthy asylum applicants, unfamiliar with the United States and its legal system, might submit an application without the benefit of counsel and without an understanding of the legal requirements of a successful asylum claim. Such people deserve a second chance to demonstrate that they deserve to receive asylum.

In conclusion, I point out that even in 1996, a year in which immigration was as unpopular in this Capitol as I can remember, this body agreed that expedited removal was inappropriate for a country of our ideals and our historic commitment to human rights. And that agreement cut across party lines, as many of my Republican colleagues voted to implement expedited removal only in times of immigration emergencies. I urge them, as well as my fellow Democrats, to support this legislation and to work for its passage before the end of the 106th Congress.

Mr. BROWNBACK. Mr. President, I join my distinguished colleagues from Vermont, Senator LEAHY and Senator JEFFORDS, among others, to introduce this bill entitled The Refugee Protection Act of 1999, which restores fairness to our treatment of refugees who arrive at our shores seeking freedom from persecution and oppression. This bill should dramatically reduce incidences where refugees are wrongly returned to their countries to face imprisonment, torture, and even death.

It was about 400 years when the refugee Pilgrims arrived in this new land seeking religious liberty. Defined by such events since the earliest days of the Republic, America has provided asylum to those fleeing tyranny and seeking liberty. George Washington urged his fellow citizens ''to render this country more and more a safe and propitious asylum for the unfortunates of other countries.'' In his 1801 First Annual Message, President Thomas Jefferson asked, ''Shall oppressed humanity find no asylum on this globe?''

In 1996, Congress changed the procedures by which arriving asylum seekers ask for protection in the United States, which our legislation corrects. Previously, arriving asylum seekers presented their claims directly to an immigration judge at an evidentiary hearing. The applicant could present witnesses and documentation to support their claim. Decisions by the immigration judge were subject to administrative and judicial review.

The new 1996 law did away with these fundamental due process protections, and instead, granted lower level INS officers the power to make life and death decisions that previously were entrusted to professional immigration judges. This new, unfortunate system of ''expedited removal'' presently allows for the immediate deportation of individuals who arrive without valid travel documents, such as a passport and visa. It can even be used against an individual who has a facially valid visa that INS inspectors suspect was obtained under false pretenses. In short,

the process is so expedited and summary that it has resulted in the improper deportation of refugees fleeing persecution and torture. Simply put, our legislation restores the pre-1996 due process procedures, including a judicial review.

Last year, Congress addressed the problems of religious persecution which continues to be a serious problem worldwide. Enactment of the International Religious Freedom Act was the first time in the history of democracy that any country had adopted comprehensive, national legislation on religious liberty. That legislation ensures that religious liberty will be an important factor in our nation's foreign policy considerations. In the May 17, 1999 final report to the Secretary of State and to President of the United States, the Advisory Committee on Religious Freedom Abroad said:

> Putting an end to such (religious) persecution cannot be accomplished without providing meaningful protection to the victims of religious persecution. We must upgrade domestic procedures that identify and protect refugees and asylum seekers fleeing religious persecution. We must strengthen our overseas refugee processing mechanisms to reach those in need of rescue. . . And, here at home we must eliminate processes such as ''expedited removal'' that can make victims of those fleeing religious persecution rather than providing access to protection.

Consistent with this commitment to protect international religious liberty, we must also ensure that persons fleeing religious persecution are not wrongly turned away at our shores because of unfair procedures. This will be accomplished through this Act.

The Refugee Protection Act returns fairness to the system by limiting expedited removal procedures only to emergency situations. An ''emergency'' must be declared as such by the Attorney General, and typically involves large numbers of immigrants arriving en masse, so as to overwhelm the INS review system. In the event that ''expedited removal'' is employed, the Act requires an immigration judge to review the summary deportation order. Also, it permits claims for asylum to be filed beyond the one-year deadline created by the 1996 legislation, if there is good cause for the delay or when consideration of the claims is clearly in the interest of justice.

Our refugee asylum system reflects both the best and the worst policies, throughout our history as a nation. In 1939, more than 900 Jews aboard the SS *St. Louis*, who were within sight of Miami, were rejected and forced to return to Europe where they were murdered in concentration camps. Yet when World War II ended, the United States led the effort to establish universally recognized fundamental rights. As a result of this advocacy, the General Assembly of the United Nations adopted the Universal Declaration of Human Rights on December 10, 1948 which recognized a right of asylum.

Over the next 30 years the United States provided refuge to numerous people fleeing communism, including to those involved in 'underground' democracy movements in Hungary, Cuba, and Southeast Asia. Yet it was not until 1980 that Congress enacted a comprehensive asylum system using the criteria of the 1951 Convention Relating to the Status of Refugees. The Convention defines a refugee as someone with a ''well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion.'' Under the procedures of this Refugee Act of 1980, requests for asylum were decided by an immigration judge, thus providing a fundamental due process protection. Notably, this judicial review was stripped in the 1996 legislation, and is a flaw which our legislation seeks to correct.

Fair procedures are critically important in making life or death decisions, as asylum cases can be. At a June 24, 1999 hearing of the Senate Subcommittee on International Operations and Human Rights, Ms. Lavinia Limon, Director of the Office of Refugee Resettlement at the Department of Health and Human Services, noted:

> Once released, torture victims often attempt to flee to countries such as the United States to become invisible and safe, and to survive. But they retain the impact of torture: they are not able to speak of their experiences for fear officials will not believe them or understand them or will regard them as criminals. They often cannot express themselves effectively in asylum interviews because they cannot speak articulately of their experiences and they feel vulnerable to all officials. They have learned to fear government and the police and they do not trust any government officials and authorities to help them. They have been weakened and disabled psychologically from the torture. Many times the victims must flee alone, enduring long periods of separation from their families who might otherwise provide emotional support.

Today the need for proper asylum reviews is greater than ever. Worldwide, religious intolerance and ethnic strife turn religious leaders and ordinary citizens into desperate asylum seekers. According to Amnesty International, government-sanctioned torture is practiced in 125 countries.

This legislation helps those fleeing intolerable injustices in the name of religious freedom and democracy. Placing the decision squarely in the hands of an immigration judge does not impose an unreasonable or impossible burden on the government. Congress should enact the Refugee Protection Act because it restores the fundamental due process protections needed to ensure that legitimate asylum seekers are not wrongly turned away.

Mr. FEINGOLD. Mr. President, I rise today to join my distinguished colleagues, Senators LEAHY, BROWNBACK, and JEFFORDS, to introduce a bill that will reduce the likelihood that people fleeing genuine persecution in their homelands and seeking refuge in America will be unfairly returned to their countries.

Mr. President, as you know, our nation has been built by people who arrived on our shores from all over the world. Immigrants have enriched our nation economically, culturally, and in so many other invaluable ways. I don't think anyone can dispute that, of all the countries in the world, our nation has the deepest, richest commitment to welcoming all people who want to make a new home and a new life.

At the same time, Mr. President, our nation also has a deep tradition of welcoming those who are fleeing oppression in their native land. From the pilgrims who set foot in present day Massachusetts and Virginia, to the Kosovars who fled brutality in their homeland earlier this year, America has been a safe refuge for those fleeing persecution. Our nation's first president, George Washington, said: ''America is open to receive not only the opulent and respectable stranger, but the oppressed and persecuted of all nations and religions.'' George Washington said those words in 1783. One hundred and one years later, France would present our country with a gift, a statue called ''Liberty Enlightening the World.'' In 1884, that title was a profound statement of our nation's past, our present and hope for the future. ''Liberty Enlightening the World'' later became known as the Statue of Liberty. The Statue of Liberty has these words inscribed on her:

> . . . Give me your tired, your poor,
> Your huddled masses yearning to breathe free,
> The wretched refuse of your teeming shore.
> Send these, the homeless, tempest-tost to me,
> I lift my lamp beside the golden door!

Unfortunately, Mr. President, our current asylum and immigration laws have nearly slammed the door shut on victims of persecution, even those who are sure to suffer if returned to their home countries. Current law originates with the passage in 1996 of the Illegal Immigration Reform and Immigrant Responsibility Act. That law was an attempt to combat illegal immigration. But in the process, Congress denied victims of persecution the protection that our nation historically has offered. The current system provides for the immediate deportation of individuals who arrive without travel documents precisely in order. Now, Mr. President, it's appropriate that we require these documents, but people who have fled torture and great brutality may not have proper documentation because of the circumstances under which they fled their homelands. As a result, genuine victims of persecution face the risk of being turned away at our borders and put on the next plane back to face imprisonment, torture or death. The 1996 law effectively empowers low level INS officers to summarily make the life and death decision as to whether to deport an asylum seeker. Prior to 1996, those decisions were made by an immigration judge. We must return a judicial role to the review of asylum claims.

As my colleagues who were here in 1995 and 1996 may recall, the 1996 law

was enacted in reaction to a flurry of concern that our border controls were too lax. The debate on the 1996 law was fueled by legitimate concern over criminals who managed to enter the country and commit acts of terrorism or other crimes. In response, the INS began a sensible tightening of the asylum process. In 1994 and 1995, the INS ceased issuing work authorizations at the border. Instead, asylum seekers had to wait until an adjudication of their case before receiving work authorization. As a result, claims for asylum dropped dramatically—those who were seeking work but did not have a legitimate fear of persecution were no longer claiming asylum. The INS reforms were effective. But the 1996 law went too far. In our rush to keep undesirable asylum applicants out, Congress created a system where those with bona fide asylum claims face the great risk of being immediately deported to face the wrath of oppressive home governments without a real chance to make their case.

Because an INS officer has the authority to deport refugees immediately, with no record keeping requirement, it has been difficult to determine exactly how many genuine refugees with a valid fear of persecution in their home countries have been turned away at our airports and borders as a result of the 1996 law. Organizations like the Lawyers Committee for Human Rights, however, have been able to collect some data on the extent of the problem.

One of the most troubling stories is the case of a 21-year-old Kosovar Albanian known as ''Dem.'' In October 1998, Serb police seized Dem at his home, beat him, and threatened to kill his family. This abuse occurred over a period of ten days. When the Serb police finally released Dem, he fled Kosovo. He eventually made his way to the United States in January of this year, landing in California via Mexico City. When he arrived, the INS arranged for a Serbian translator to assist by telephone with its questioning of Dem. But Dem, a Kosovar Albanian, could not speak Serbian. After the translator spoke with Dem, the translator said something to the INS officer. The INS officer promptly handcuffed and fingerprinted Dem and then put him on a plane back to Mexico City.

Fortunately, Dem was not returned to Kosovo. Dem tried re-entering the United States and on this second attempt, he was allowed to apply for asylum. But the facts supporting Dem's asylum claim had not changed. We must fix a system that produces such arbitrary results where people's lives, and American ideals, are at stake.

We don't know exactly how many victims of real persecution have been immediately deported, and we obviously don't know exactly what has happened to each victim since enactment of the 1996 law. What we do know is that an asylum seeker who is fleeing torture, abuse or death faces the risk of being kicked out of our country, without even obtaining a perfunctory hearing before an immigration judge.

The Refugee Protection Act of 1999 will return fairness and due process to the treatment of asylum seekers. For non-emergency migration situations, the bill would restore the pre-1996 law, when immigration judges were involved in the decision to deport someone who claimed asylum. The current process will continue to apply in emergency migration situations and would designate the Attorney General as the official with authority to determine when an emergency migration situation exists. The bill also would provide that an emergency cannot exist for more than 90 days, unless the Attorney General, after consultation with the Senate and House Judiciary Committees, determines that the emergency situation continues to exist.

Mr. President, this is a sensible bill that allows us to scrutinize those who come to our borders, but honors our best traditions and returns fairness and humanity to our treatment of those who are fleeing persecution. I urge my colleagues to join me and Senators LEAHY, BROWNBACK and JEFFORDS in fighting for basic human dignity, decency and justice. Let us lift the torch of ''Liberty Enlightening the World'' once again. Let us not reflexively turn away those whose very lives may depend on a fair hearing as they seek refuge in the United States.

By Mr. DODD (for himself and Mr. DEWINE):

S. 1941. A bill to amend the Federal Fire Prevention and Control Act of 1974 to authorize the Director of the Federal Emergency Management Agency to provide assistance to fire departments and fire prevention organizations for the purpose of protecting the public and firefighting personnel against fire and fire-related hazards; to the Committee on Commerce, Science, and Transportation.

FIREFIGHTER INVESTMENT AND RESPONSE ENHANCEMENT ACT

● Mr. DODD. Mr. President, I rise today with my colleague and friend, Senator DEWINE of Ohio, to introduce legislation that would represent our nation's first comprehensive commitment to fire safety. The Firefighter Investment and Response Enhancement Act (the FIRE bill), will, for the first time, provide volunteer and professional firefighters with the resources they need to protect the people and property of their towns and cities.

In communities throughout America, firefighters are almost always the first to respond to a call for help. They respond to a fire alarm. They are on the scene of traffic accidents and construction accidents. Emergency medical technicians, who often belong to fire departments, each day answer tens of thousands of calls for medical assistance. And, when a natural or manmade calamity strikes—from hurricanes to school shootings to bombings—firefighters are there without fail, restoring order and saving lives.

Given all that they do, it should surprise no one that, across the Nation, fire departments struggle to find resources to help keep our communities safe. As the demands placed on fire departments have grown in volume and magnitude, the ability of local residents to support them has been put to a severe test. As a result, towns and cities throughout the country are struggling mightily to provide the fire departments with the resources they require.

The FIRE Act will help localities meet that critical objective. It will provide grants to help localities hire more firefighters, train new and existing personnel to handle the volume and intensity of today's tragedies, and purchase badly needed equipment.

This legislation will also provide critical resources to communities to fund fire prevention and education programs so that they can anticipate disasters and respond appropriately. Such programs are critical means of preventing tragedies from occurring in the first place. Eight out of ten fire deaths occur in a place where people feel the safest—their homes. Tragically, our children and the elderly account for a disproportionate number of these deaths. Indeed, preschool children face a risk of death from fire that is more than twice the risk for all age groups combined. While we can and should ensure that the fire equipment and personnel are available to respond to these tragedies, our best defense remains education and prevention. Yet, it is a painful irony that when resources are scarce, education and prevention efforts are often the first to be put on the budgetary chopping block. The legislation Senator DEWINE and I are introducing will help ensure that no locality is put in the painful position of choosing between prevention and responding to emergencies.

This legislation will enable our fire departments to worry more about saving lives and less about finding dollars. It will enable communities to better prevent disasters, and better train firefighters.

I look forward to working with Senator DEWINE to successfully advance this legislation in the Senate. It is our shared hope that our colleagues will come to realize that this bill is one whose time has come. Our Nation's firefighters deserve the support that this bill will provide, and I hope that we will give it to them before the end of this Congress.●

● Mr. DEWINE. Mr. President, each day, we entrust our lives and the safety of our families, friends, and neighbors to the capable hands of the brave men and women in our local police and fire departments. These individuals have decided that they are willing to risk their lives and safety out of a dedication to their citizens and their commitment to public service.

In Congress, we have recognized the dangers inherent in police work by

dedicating federal resources to help local police departments. In fact, this year, Fiscal Year (FY) 1999, the federal government spent $11 billion on law enforcement initiatives, such as the COPS program, to help local law enforcement face the daily challenges of their communities. In contrast, though, the federal government spent only $32 million on fire prevention and training.

We ask local firefighters to risk no less than their lives every time they respond to a fire alarm. We ask them to risk their lives responding to the approximately two million reports of fire that they receive on an annual basis. We expect them to be willing to give their lives in exchange for the lives of our families, neighbors, and friends once every 71 seconds while responding to the 400,000 residential fires—fires which represent only about 22% of all fires reported. We count on them to protect our lives and the lives of our loved ones.

I believe the Federal Government needs to show a greater commitment to the fire services. So, today, along with my colleague and friend from Connecticut, Senator DODD, I rise to introduce the Firefighter Investment and Response Enhancement Act—or, FIRE bill. This bill is very simple. It authorizes, over five years, $5 billion in grants to local fire departments. These grants can be used for just about any purpose—training, equipment, hiring more firefighters, or education and prevention programs. A new office, established by this bill under the Federal Emergency Management Agency (FEMA), would be responsible for distributing grants to local departments based on a competitive process, involving needs assessment. To ensure that the funding is not spent solely on brand new state-of-the-art fire trucks, it mandates that no more than 25% of the grant funding can be used to purchase new fire vehicles. Finally, it requires that at least 10% of the funds are used for fire prevention programs.

Our bill is supported by the National Safe Kids Campaign, the International Association of Fire Fighters, International Association of Fire Chiefs, national Volunteer Fire Council, International Association of Arson Investigators, International Society of Fire Service Instructors, and the National Fire Protection Association. It is also a companion measure to legislation introduced in the House by Congressmen PASCRELL and WELDON, where almost 200 members of the House of Representatives have cosponsored it. I am proud to introduce this bill with my friend from Connecticut and look forward to working to ensure that the federal government increases its commitment to the men and women who make up our local fire departments. We owe it to them.●

By Mr. JEFFORDS:

S. 1942. A bill to amend the Older Americans Act of 1965 to establish grant programs to provide State pharmacy assistance programs and medication management programs; to the Committee on Health, Education, Labor, and Pensions.

PHARMACEUTICAL AID FOR OLDER AMERICANS ACT

Mr. JEFFORDS. Mr. President, there has been considerable attention rightfully paid by our colleagues this year to the issue of providing prescription drug coverage for our older American citizens. Estimates of the number of older Americans without some form of added coverage for prescription drugs vary between a low of 16.7 percent to 50 percent. About 7.7 million Medicare beneficiaries with annual incomes below 200 percent of poverty have no prescription drug coverage, despite some evidence indicating they are in poorer health than those beneficiaries with coverage. Those without added coverage for prescription benefits spend approximately 50 percent of their total income on out-of-pocket health care costs, and there are anecdotal reports that some elders forgo taking their prescribed medicines in order to have food to eat. Finally, there are econometric studies that conclude that a $1 increase in pharmaceutical expenditure is associated with a $3.65 reduction in hospital care expenditure.

The problems posed by the lack of prescription drug coverage for the neediest elders is compounded by the well-documented effects of inappropriate drug use among the elderly. In 1995, the General Accounting Office (GAO) found that inappropriate drug use among elders is acute and that elders were particularly susceptible to unintended, adverse drug events (ADEs), due in part to the natural aging process and also to the likelihood that they are taking multiple medications. One study of drug use by the elderly, done by the Vermont Program for Quality in Health Care, found that it was not uncommon for elders to be taking more than a dozen drugs at one time. In fact, the Vermont study actually documented one case in which ''a single individual received prescriptions for 71 different drugs in a single year, several of which probably should not have been taken in combination.''

The GAO report also cited studies showing that hospitalizations for elderly patients due to ADEs were six times greater than for the general population, with an estimated annual cost of $20 billion. However, a recent Journal of the American Medical Association article indicated that the level of ADEs could be reduced 66 percent, if a pharmacist participated in grand rounds. Clearly, more must be done to recognize the importance of medication management programs that ensure the quality of drug therapy, including patient evaluations, compliance assessments, and drug therapy reviews.

We are all aware that prescription drug costs continue to grow at an alarming rate. Seniors are being forced to spend greater and greater portions of their fixed incomes on prescription drugs which they need to live. Research and development of prescription drugs have come a long way since Medicare was originally enacted in 1965. Today, drugs are just as important as hospital visits, and in many cases more important, and it just doesn't make sense for Medicare to reimburse hospitals for surgery but not to provide coverage for the drugs that might prevent surgery. We need to modernize the Medicare program so that it does not go bankrupt in the next 10 to 15 years, and at the same time we must ensure that any Medicare reform proposal we consider includes a prescription drug benefit that helps all seniors.

Mr. President, I have already introduced two measures that will help our older citizens obtain the medicines they need and at prices they can afford. My first bill, S. 1462, the ''Personal Use Prescription Drug Importation Act of 1999,'' allows Americans of all ages to avail themselves of the lower prices for prescription medicines that are available in Canada. A second measure, S. 1725, the ''DrugGap Insurance for Seniors Act of 1999,'' would provide for a more comprehensive access to prescription drugs by Medicare beneficiaries through reform and modernization of the Medicare Supplemental, Medigap, program. Under this approach, all existing Medigap plans, and three new drug-only Medigap plans, would provide various levels of prescription drug benefits from which seniors could choose. And our neediest elders' needs would be supported through Federal contributions for the cost of their premiums.

During the 1st Session of the 106th Congress, no fewer than eight bills have been introduced in the Senate to provide a prescription drug benefit for Medicare beneficiaries—with most proposals estimated to cost between $5 billion and $40 billion per year. While I'm hopeful that we will all work hard to include a prescription drug benefit for Medicare beneficiaries, I am also concerned that at the end of the Congress we may not be successful. That is why I am introducing a measure today, the ''Pharmaceutical Aid to Older Americans Act,'' which will serve as a backstop for our neediest elders. This program builds on State pharmacy assistance programs that are already in place, and it encourages States to begin them where they don't already exist.

Fifteen States are cutting new and innovative paths for providing prescription drug coverage for their neediest citizens. Most of these programs are for elder citizens (more than half also cover people with disabilities), and cover a wide variety of drugs—though some are limited to certain drugs or conditions, some require cost sharing for prescription medicines, and some have annual enrollment fees or monthly premiums. As of 1997, these programs aided over 700,000 people. The

Pharmaceutical Aid to Older Americans Act is designed to assist States in their efforts to provide medicines and appropriate pharmacy counseling benefits for their neediest elders.

This Act will strengthen the Older Americans Act by authorizing two discretionary grant programs, subject to appropriations, to fund State-based pharmaceutical assistance and medication management programs. Under this measure, States would develop models that work best for them and would have the latitude to design and implement innovative approaches for providing benefits to their neediest elders. States awarded grant money would agree to: match Federal funds with 30 percent new or existing State funds or in-kind contributions and not supplant current State expenditures with Federal funds. In-kind contributions counting toward the match requirement could include assistance from pharmaceutical companies and organization- and community-based pharmacies, thereby making this approach a truly public-private partnership.

Each application for pharmaceutical assistance funds must include a medication management program that ensures the quality of drug therapies through patient evaluations, compliance assessments, and drug therapy reviews. Federal funds could be used to provide drug coverage benefits only to eligible beneficiaries, defined as Medicare beneficiaries with incomes up to 200 percent of poverty but without any other coverage for prescription drug benefits (States could expand eligibility with State resources). All senior citizens could utilize the medication management portion of the program.

This is not government control of drug prices or price-fixing. The States can purchase pharmaceuticals from any willing seller, including pharmaceutical manufacturers, pharmaceutical distributors, wholesalers, pharmacy benefit management firms (PBMs), and chain or local pharmacies, without any Federal requirement for wholesale prices or Medicaid-based rebates. In some instances, it's likely that States may be able to negotiate better purchasing prices than any of those set by some artificial, imposed ceiling. Finally, for those States that choose not to provide pharmaceutical benefits, the Act authorizes grants to States to create or support stand-alone Medication Management Programs that will involve the States in collaborative efforts with community, chain-based, and institutional pharmacists to implement medication management programs.

As I mentioned earlier, Mr. President, I am fully committed to providing a prescription benefit for all our elders as we move forward on comprehensive reform of the Medicare program. I am equally committed to seeing that the Older Americans Act is reauthorized this Congress, and I will work diligently to get these jobs accomplished. However, if the latter effort succeeds and the former doesn't, then the Pharmaceutical Assistance for Older Americans Act will be in place to provide much-needed medicines for our neediest elders. I'm very pleased Mr. President, that this measure has received endorsement of two of the key advocacy organizations associated with the Older Americans Act, the National Association of Area Agencies on Aging and the National Association of State Units on Aging. Note that these guardians of the aged support this measure, like me, if and only if we are unsuccessful in passing a prescription drug benefit for the Medicare program.

Mr. President, I ask unanimous consent that the bill and the text of these letters and this measure be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1942

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 ''Pharmaceutical Aid to Older Americans Act''.

SEC. 2. AMENDMENT TO OLDER AMERICANS ACT OF 1965.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034 et seq.) is amended by adding at the end the following:

''SEC. 429K. GRANTS FOR STATE PHARMACY ASSISTANCE PROGRAMS.

''(a) PROGRAM AUTHORIZED.—The Assistant Secretary may award grants to States to provide and administer State pharmacy assistance programs.

''(b) PREFERENCE.—In awarding grants under subsection (a), the Assistant Secretary shall give preference to States that propose to develop and implement State pharmacy assistance programs, or to provide assistance to State pharmacy assistance programs in existence on the date of enactment of this section, that provide services for underserved populations or for populations residing in rural areas.

''(c) USE OF FUNDS.—A State that receives a grant under subsection (a) shall use funds made available through the grant to—

''(1) develop and implement a State pharmacy assistance program, or to provide assistance to a State pharmacy assistance program in existence on the date of enactment of this section; and

''(2) prepare and submit an evaluation to the Assistant Secretary on the implementation of, or provision of, or assistance to a program described in paragraph (1).

''(d) APPLICATION.—To be eligible to receive a grant under subsection (a), a State shall submit to the Assistant Secretary an application at such time, in such manner, and containing such information as the Assistant Secretary may require, including—

''(1) a description of a State pharmacy assistance program that such State plans to develop and implement, including information on the anticipated number of individuals to be served, eligibility criteria of individuals to be served, such as the age and income level of such individuals, drugs to be covered by the program, and performance measures to be used to evaluate the program; or

''(2) a description of a State pharmacy assistance program in existence on the date of enactment of this section that such State plans to assist with funds received under subsection (a), including information on the number of individuals served, eligibility criteria of individuals served, such as the age and income level of such individuals, drugs covered by the program, and performance measures used to evaluate the program.

''(e) MINIMUM AMOUNT.—In awarding grants under subsection (a), from the amount appropriated under subsection (l)(1) for each fiscal year, the Assistant Secretary shall award, to each eligible State, an amount that is not less than $250,000.

''(f) DURATION OF GRANT.—In awarding grants under subsection (a), the Assistant Secretary shall award such grants for periods of 2 years.

''(g) MATCHING REQUIREMENT.—The Assistant Secretary shall not award a grant to a State under subsection (a) unless that State agrees that, with respect to the costs to be incurred by the State in carrying out the program for which the grant was awarded, the State will make available (directly or through donations from public or private entities) non-Federal contributions in an amount that is not less than 30 percent of Federal funds provided under the grant.

''(h) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, any other Federal, State, or local funds expended by a State to provide the services for programs described in this section.

''(i) EVALUATIONS AND REPORT.—

''(1) PROGRAM EVALUATIONS.—Not later than 6 months after the end of the period for which the grant is awarded under subsection (a), the State shall prepare an evaluation of the effectiveness of programs carried out with funds received under this section. Not later than 6 months after the end of such period, the State shall submit to the Assistant Secretary a report containing the results of the evaluation, in such form and containing such information as the Assistant Secretary may require.

''(2) REPORT TO CONGRESS.—Not later than 36 months after the date of enactment of this section, the Assistant Secretary shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that describes the effectiveness of the programs carried out with funds received under this section.

''(j) SUNSET PROVISION.—This section shall not apply beginning on the date of enactment of legislation that provides comprehensive health care coverage for prescription drugs under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) for all medicare beneficiaries.

''(k) DEFINITIONS.—In this section:

''(1) MEDICATION MANAGEMENT.—The term 'medication management program' means a program of services for older individuals, including pharmacy counseling, medicine screening, or patient and health care provider education programs, that—

''(A) provides information and counseling on the prescription drug purchases that are currently the most economical, and safe and effective;

''(B) provides services to minimize unnecessary or inappropriate use of prescription drugs; and

''(C) provides services to minimize adverse events due to unintended prescription drug-to-drug interactions.

''(2) STATE PHARMACY ASSISTANCE PROGRAMS.—The term 'State pharmacy assistance program' means a program that provides coverage for prescription drugs and medication management programs for individuals who—

''(A) are not less than 65 years of age;

''(B) are not eligible for medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

''(C) are from families with incomes at or below 200 percent of the poverty line; and

''(D) have no coverage for prescription drugs other than coverage provided by a State pharmacy assistance program.

''(l) AUTHORIZATION OF APPROPRIATIONS.—

''(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, $25,000,000 for fiscal year 2001, and such sums as may be necessary for each of fiscal years 2002 through 2005.

''(2) RESERVATION.—From the amount appropriated under paragraph (1), for each fiscal year, the Assistant Secretary shall reserve not less than 33.3 percent of such amount to enable States to assist State pharmacy assistance programs in existence on the date of enactment of this section.

''SEC. 429L. GRANTS FOR MEDICATION MANAGEMENT PROGRAMS.

''(a) PROGRAM AUTHORIZED.—The Assistant Secretary may award grants to State agencies to assist such agencies or area agencies on aging in providing and administering medication management programs.

''(b) USE OF FUNDS.—A State agency or area agency on aging that receives funds through a grant awarded under subsection (a) shall use such funds to—

''(1) develop and implement a medication management program, or to provide assistance to a medication management program in existence on the date of enactment of this section; and

''(2) prepare an evaluation on the implementation of or provision of assistance to a program described in paragraph (1), and, in the case of an area agency on aging, submit the evaluation to the appropriate State agency.

''(c) APPLICATION.—To be eligible to receive a grant under subsection (a), a State agency shall submit to the Assistant Secretary an application at such time, in such manner, and containing such information as the Assistant Secretary may require.

''(d) MINIMUM AMOUNT.—In awarding grants under subsection (a), from the amount appropriated under subsection (j) for each fiscal year, the Assistant Secretary shall award, to each eligible State agency, an amount that is not less than $50,000.

''(e) DURATION OF GRANT.—In awarding grants under subsection (a), the Assistant Secretary shall award such grants for a period of 2 years.

''(f) MATCHING REQUIREMENT.—The Assistant Secretary shall not award a grant to a State agency under subsection (a) unless that State agency agrees that, with respect to the costs to be incurred in carrying out programs for which the grant was awarded, the State agency will make available (directly or through donations from public or private entities) non-Federal contributions in an amount that is not less than 30 percent of Federal funds provided under the grant.

''(g) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section shall be used to supplement, and not supplant, any other Federal, State, or local funds expended by a State agency or area agency on aging to provide the services for programs described in this section.

''(h) REPORTS.—

''(1) REPORT TO ASSISTANT SECRETARY.—Not later than 24 months after receipt of a grant under subsection (a), a State agency shall prepare and submit to the Assistant Secretary a report on the medication management programs carried out by the State agency or area agencies on aging in the State in such form and containing such information as the Assistant Secretary may require, including an analysis of the effectiveness of the programs. Such report shall in part be based on evaluations submitted under subsection (b)(2).

''(2) REPORT TO CONGRESS.—Not later than 36 months after grants have been awarded under subsection (a), the Assistant Secretary shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that describes the effectiveness of the programs carried out with funds received under this section.

''(i) MEDICATION MANAGEMENT PROGRAMS.—In this section, the term 'medication management program' means a program of services for older individuals, including pharmacy counseling, medicine screening, or patient and health care provider education programs, that—

''(1) provides information and counseling on the prescription drug purchases that are currently the most economical, and safe and effective;

''(2) provides services to minimize unnecessary or inappropriate use of prescription drugs; and

''(3) provides services to minimize adverse events due to unintended prescription drug-to-drug interactions.

''(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $15,000,000 for fiscal year 2001, and such sums as may be necessary for each of fiscal years 2002 through 2005.''.

NATIONAL ASSOCIATION OF AREA AGENCIES ON AGING,
Washington, DC, November 9, 1999.

Hon. JAMES JEFFORDS,
Chair, Committee on Health, Education, Labor & Pensions, U.S. Senate, Washington, DC.

DEAR SENATOR JEFFORDS: The National Association of Area Agencies on Aging (N4A) is pleased that you are introducing the Pharmaceutical Aid to Older Americans Act. We believe implementation of this Act could be an ideal interim measure until a Medicare prescription drug benefit is enacted.

As you know, a fast-growing aging population coupled with escalating pharmaceutical costs makes the lack of prescription drug coverage one of the most pressing problems facing our nation's older Americans. The proposed State Pharmacy Assistance Program would allow states with existing benefit programs to expand services and provide a strong incentive for other states to implement a prescription drug program.

Your legislative measure also goes far in addressing drug misuse, which is another escalating and dangerous problem. The proposed Medication Management Program would provide states with a financial base to implement a statewide information, education and counseling program that would significantly benefit the health and welfare of older adults.

While N4A supports your proposal in concept, we have some specific questions about the implementation of these programs and concerns about the roles and responsibilities of Area Agencies on Aging (AAAs) and Title IV Native American grantees. We welcome the opportunity to meet with you in the near future to address these concerns.

Again, we applaud your efforts and look forward to working with you next session as you further define the proposal and shepherd it through the legislative process.

Sincerely,

JANICE JACKSON,
Executive Director.

NATIONAL ASSOCIATION OF STATE UNITS ON AGING,
Washington, DC, November 10, 1999.

SEAN DONOHUE,
U.S. Senate, Committee on Health, Education, Labor, and Pensions, Washington, DC.

DEAR SEAN: Dan Quirk and I reviewed the draft you sent last week outlining Senator Jeffords' proposed Pharmaceutical Aid to Older Americans Act. Overall, the proposal to provide grants to states to support the development or expansion of pharmaceutical assistance programs and medication management programs is a good one, and using the existing infrastructure of the Older Americans Act makes good sense. The aging network is well suited to develop and administer these types of programs. Your proposal was well developed and thoughtful.

Both programs would provide valuable assistance to older people who do not have any other prescription drug coverage available. The requirement for a 30-percent state match seems high, but allowing contributions to be ''in-kind'' will help states in that regard. The income eligibility level of 200-percent of the federal poverty level may conflict with the eligibility levels set by states in existing programs, though I haven't done an analysis of this yet. As with other programs under the Older Americans Act, if state-funded programs already exist that provide the same services, and eligibility or cost sharing requirements are at odds with the federal program, it requires states essentially to manage two different funding streams for the same program or set of services. As always, giving states the flexibility to blend federal funds with state funds to develop one program would decrease administrative expenses for the states and allow the money saved to be used for direct services.

NASUA continues to support overall reform of the Medicare program that would provide a comprehensive prescription drug benefit to beneficiaries. In the meantime, state-funded programs that are being developed and which would be supported under this proposal continue to fill in the gaps for people with no coverage for prescription drugs. This proposal would strengthen the existing infrastructure, and perhaps could serve to support a prescription program under Medicare whenever it may be implemented in the future.

We hope this proposal will generate some further interest in reauthorizing the Older Americans Act as soon as possible, hopefully before the end of the 106th Congress. We were very disappointed that reauthorization was stalled over long-standing disagreements over the Title V program.

If there is anything NASUA can do to support Senator Jeffords proposal and reauthorization, please let me know.

Thanks for the opportunity to review the Pharmaceutical Aid to Older Americans Act.

Sincerely,

KATHLEEN C. KONKA,
Policy Associate.

By Mrs. MURRAY:

S. 1943. A bill to provide for an inexpensive book distribution program; to the Committee on Health, Education, Labor, and Pensions.

FIRST BOOK DISTRIBUTION PROGRAM ACT

● Mrs. MURRAY. Mrs. MURRAY. Mr. President, today I introduce legislation on another topic I will be discussing with Chairman JEFFORDS as we move forward with reauthorization of the Elementary and Secondary Education Act in the Senate Health, Education, Labor, and Pensions Committee.

I am introducing legislation today to fund an innovative book distribution

program targeted at giving low-income students their own ''first book.''

The ''First Book'' program is a nonprofit private organization that has been tremendously successful gathering and distibuting new children's books to needy children throughout the nation. Key to the success of ''First Book'' are local boards called ''First Book Local Advisory Boards.'' Under my legislation, which would provide $5 million a year federal investment to such boards, will help them leverage millions more in funds from other sources. ''First Book'' has been successful because it is locally-driven, and reflects private industry initiative. ''First Book'' provides new books, which the program purchases from publishers at discount rates, to disadvantaged children and families primarily through tutoring, mentoring, and family literacy programs.

This bill builds on successful efforts underway in communities across the country. It takes what has been a successful but very targeted program, and will increase its reach and effect into many more American communities. ''First Book'' makes a very real difference for disadvantaged children and their families, and with this investment, it will make a difference for thousands more.●

By Mrs. MURRAY:

S. 1944. A bill to provide national challenge grants for innovation in the education of homeless children and youth; to the Committee on Health, Education, Labor, and Pensions.

STUART MCKINNEY HOMELESS EDUCATION IMPROVEMENT ACT

● Mrs. MURRAY. Mr. President, today I introduce legislation on another topic I will be discussing with Chairman JEFFORDS as we move forward with reauthorization of the Elementary and Secondary Education Act in the Senate Health, Education, Labor, and Pensions Committee.

The bill deals with an improvement I hope we can make in the Stuart McKinney Homeless Education program. While the McKinney program is relatively small, my hope is that we can greatly improve its effectiveness by recognizing and funding innovative approaches for serving homeless students.

Chairman JEFFORDS and others have recognized that keeping a homeless child in their school district of origin is vital to their success. Children, especially homeless children, need continuity in their lives. Yet as a nation, we have not yet focused on funding the innovative practices that will show how this can be done and done effectively.

In addition, there are chronic problems facing homeless children, such as the problems of trying to reach out to unaccompanied homeless youth, those young people who do not have parents or guardians with them in their homeless situation. Homeless preschoolers present another whole range of issues that many schools struggle to overcome.

My legislation will provide $2 million each year in national competitive challenge grants for innovation in the education of homeless children and youth. We follow this same approach in education technology and other areas, and challenge grants are remarkably successful in sparking innovation and dissemination of new methods of instruction.

Homeless students face many challenges, and schools face challenges in serving them. Creating a small challenge grant for homeless education is one necessary step we can take to help schools help these students succeed and achieve.●

By Mr. LOTT:

S. 1948. A bill to amend the provisions of title 17, United States Code, and the Communications Act of 1934, relating to copyright licensing and carriage of broadcast signals by satellite; to the Committee on the Judiciary.

INTELLECTUAL PROPERTY AND COMMUNICATIONS OMNIBUS REFORM ACT OF 1999

Mr. LOTT: Mr. President, I ask unanimous consent that the following section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1948—SECTION-BY-SECTION ANALYSIS

Section 1. Short Title. This Act may be cited as the ''Intellectual Property and Communications Omnibus Reform Act of 1999.''

TITLE I—SATELLITE HOME VIEWER IMPROVEMENT ACT OF 1999

When Congress passed the Satellite Home Viewer Act in 1988, few Americans were familiar with satellite television. They typically resided in rural areas of the country where the only means of receiving television programming was through use of a large, backyard C-band satellite dish. Congress recognized the importance of providing these people with access to broadcast programming, and created a compulsory copyright license in the Satellite Home Viewer Act that enabled satellite carriers to easily license the copyrights to the broadcast programming that they retransmitted to their subscribers.

The 1988 Act fostered a boom in the satellite television industry. Coupled with the development of high-powered satellite service, or DSS, which delivers programming to a satellite dish as small as 18 inches in diameter, the satellite industry now serves homes nationwide with a wide range of high quality programming. Satellite is no longer primarily a rural service, for it offers an attractive alternative to other providers of multichannel video programming; in particular, cable television. Because satellite can provide direct competition with the cable industry, it is in the public interest to ensure that satellite operates under a copyright framework that permits it to be an effective competitor.

The compulsory copyright license created by the 1988 Act was limited to a five year period to enable Congress to consider its effectiveness and renew it where necessary. The license was renewed in 1994 for an additional five years, and amendments made that were intended to increase the enforcement of the network territorial restrictions of the compulsory license. Two-year transitional provisions were created to enable local network broadcasters to challenge satellite subscribers' receipt of satellite network service where the local network broadcaster had reason to believe that these subscribers received an adequate off-the-air signal from the broadcaster. The transitional provisions were minimally effective and caused much consumer confusion and anger regarding receipt of television network stations.

The satellite license is slated to expire at the end of this year, requiring Congress to again consider the copyright licensing regime for satellite retransmissions of over-the-air television broadcast stations. In passing this legislation, the Conference Committee was guided by several principles. First, the Conference Committee believes that promotion of competition in the marketplace for delivery of multichannel video programming is an effective policy to reduce costs to consumers. To that end, it is important that the satellite industry be afforded a statutory scheme for licensing television broadcast programming similar to that of the cable industry. At the same time, the practical differences between the two industries must be recognized and accounted for.

Second, the Conference Committee reasserts the importance of protecting and fostering the system of television networks as they relate to the concept of localism. It is well recognized that television broadcast stations provide valuable programming tailored to local needs, such as news, weather, special announcements and information related to local activities. To that end, the Committee has structured the copyright licensing regime for satellite to encourage and promote retransmissions by satellite of local television broadcast stations to subscribers who reside in the local markets of those stations.

Third, perhaps most importantly, the Conference Committee is aware that in creating compulsory licenses, it is acting in derogation of the exclusive property rights granted by the Copyright Act to copyright holders, and that it therefore needs to act as narrowly as possible to minimize the effects of the government's intrusion on the broader market in which the affected property rights and industries operate. In this context, the broadcast television market has developed in such a way that copyright licensing practices in this area take into account the national network structure, which grants exclusive territorial rights to programming in a local market to local stations either directly or through affiliation agreements. The licenses granted in this legislation attempt to hew as closely to those arrangements as possible. For example, these arrangements are mirrored in the section 122 ''local-to-local'' license, which grants satellite carriers the right to retransmit local stations within the station's local market, and does not require a separate copyright payment because the works have already been licensed and paid for with respect to viewers in those local markets. By contrast, allowing the importation of distant or out-of-market network stations in derogation of the local stations' exclusive right—bought and paid for in market-negotiated arrangements—to show the works in question undermines those market arrangements. Therefore, the specific goal of the 119 license, which is to allow for a life-line network television service to those homes beyond the reach of their local television stations, must be met by only allowing distant network service to those homes which cannot receive the local network television stations. Hence, the ''unserved household'' limitation that has been in the license since its inception. The Committee is mindful and respectful of the

interrelationship between the communications policy of ''localism'' outlined above and property rights considerations in copyright law, and seeks a proper balance between the two.

Finally, although the legislation promotes satellite retransmissions of local stations, the Conference Committee recognizes the continued need to monitor the effects of distant signal importation by satellite. To that end, the compulsory license for retransmission of distant signals is extended for a period of five years, to afford Congress the opportunity to evaluate the effectiveness and continuing need for that license at the end of the five-year period.

Section 1001. Short Title

This title may be cited as the ''Satellite Home Viewer Improvement Act.''

Section 1002. Limitations on Exclusive Rights; Secondary Transmissions by Satellite Carriers Within Local Markets

The House and the Senate provisions were in most respects highly similar. The conference substitute generally follows the House approach, with the differences described here.

Section 1002 of this Act creates a new statutory license, with no sunset provision, as a new section 122 of the Copyright Act of 1976. The new license authorizes the retransmission of television broadcast stations by satellite carriers to subscribers located within the local markets of those stations.

Creation of a new statutory license for retransmission of local signals is necessary because the current section 119 license is limited to the retransmission of distance signals by satellite. The section 122 license allows satellite carriers for the first time to provide their subscribers with the television signals they want most: their local stations. A carrier may retransmit the signal of a network station (or superstation) to all subscribers who reside within the local market of that station, without regard to whether the subscriber resides in an ''unserved household.'' The term ''local market'' is defined in Section 119(j)(2), and generally refers to a station's Designated Market Area as defined by Nielsen.

Because the section 122 license is permanent, subscribers may obtain their local television stations without fear that their local broadcast service may be turned off at a future date. In addition, satellite carriers may deliver local stations to commercial establishments as well as homes, as the cable industry does under its license. These amendments create parity and enhanced competition between the satellite and cable industries in the provision of local television broadcast stations.

For a satellite carrier to be eligible for this license, this Act, following the House approach, provides both in new section 122(a) and in new section 122(d) that a carrier may use the new local-to-local license only if it is in full compliance with all applicable rules and regulations of the Federal Communications Commission, including any requirements that the Commission may adopt by regulation concerning carriage of stations or programming exclusivity. These provisions are modeled on similar provisions in section 111, the terrestrial compulsory license. Failure to fully comply with Commission rules with respect to retransmission of one or more stations in the local market precludes the carrier from making use of the section 122 license. Put another way, the statutory license overrides the normal copyright scheme only to the extent that carriers strictly comply with the limits Congress has put on that license.

Because terrestrial systems, such as cable, as a general rule do not pay any copyright royalty for local retransmissions of broadcast stations, the section 122 license does not require payment of any copyright royalty by satellite carriers for transmissions made in compliance with the requirements of section 122. By contrast, the section 119 statutory license for distant signals does require payment of royalties. In addition, the section 122 statutory license contains no ''unserved household'' limitation, while the section 119 license does contain that limitation.

Satellite carriers are liable for copyright infringement, and subject to the full remedies of the Copyright Act, if they violate one or more of the following requirements of the section 122 license. First, satellite carriers may not in any way willfully alter the programming contained on a local broadcast station.

Second, satellite carriers may not use the section 122 license to retransmit a television broadcast station to a subscriber located outside the local market of the station. Retransmission of a station to a subscriber located outside the station's local market is covered by section 119, and is permitted only when all conditions of that license are satisfied. Accordingly, satellite carriers are required to provide local broadcasters with accurate lists of the street addresses of their local-to-local subscribers so that broadcasters may verify that satellite carriers are making proper use of the license. The subscriber information supplied to broadcasters is for verification purposes only, and may not be used by broadcasters for any other reason. Any knowing provision of false information by a satellite carrier would, under section 122(d), bar use of the Section 122 license by the carrier engaging in such practices. The section 122 license contains remedial provisions parallel to those of Section 119, including a ''pattern or practice'' provision that requires termination of the Section 122 statutory license as to a particular satellite carrier if it engages in certain abuses of the license.

Under this provision, just as in the statutory licenses codified in sections 111 and 119, a violation may be proven by showing willful activity, or simple delivery of the secondary transmission over a certain period of time. In addition to termination of service on a nationwide or local or regional basis, statutory damages are available up to $250,000 for each 6–month period during which the pattern or practice of violations was carried out. Satellite carriers have the burden of proving that they are not improperly making use of the section 122 license to serve subscribers outside the local markets of the television broadcast stations they are providing. The penalties created under this section parallel those under Section 119, and are to deter satellite carriers from providing signals to subscribers in violation of the licenses.

The section 122 license is limited in geographic scope to service to locations in the United States, including any commonwealth, territory or possession of the United States. In addition, section 122(j) makes clear that local retransmission of television broadcast stations to subscribers is governed solely by the section 122 license, and that no provision of the section 111 cable compulsory license should be interpreted to allow satellite carriers to make local retransmissions of television broadcast stations under that license. Likewise, no provision of the section 119 license (or any other law) should be interpreted as authorizing local-to-local retransmissions. As with all statutory licenses, these explicit limitations are consistent with the general rule that, because statutory licenses are in derogation of the exclusive rights granted under the Copyright Act, they should be interpreted narrowly.

Section 1002(a) of this Act contains new standing provisions. Adopting the approach of the House bill, section 122(f)(1) of the Copyright Act is parallel to section 119(e), and ensures that local stations, in addition to any other parties that qualify under other standing provisions of the Act, will have the ability to sue for violations of section 122. New section 122(f)(2) of the Copyright Act enables a local television station that is not being carried by a satellite carrier in violation of the license to file a copyright infringement lawsuit in federal court to enforce its rights.

Section 1003. Extension of Effect of Amendments to Section 119 of Title 17, United States Code

As in both the House bill and the Senate amendment, this Act extends the section 119 satellite statutory license for a period of five years by changing the expiration date of the legislation from December 31, 1999, to December 31, 2004. The procedural and remedial provisions of section 119, which have already been interpreted by the courts, are being extended without change. Should the section 119 license be allowed to expire in 2004, it shall do so at midnight on December 31, 2004, so that the license will cover the entire second accounting period of 2004.

The advent of digital terrestrial broadcasting will necessitate additional review and reform of the distant signal statutory license. And responsibility to oversee the development of the nascent local station satellite service may also require for review of the distant signal statutory license in the future. For each of these reasons, this Act establishes a period for review in 5 years.

Although the section 119 regime is largely being extended in its current form, certain sections of the Act may have a near-term effect on pending copyright infringement lawsuits brought by broadcasters against satellite carriers. These changes are prospective only; Congress does not intend to change the legality of any conduct that occurred prior to the date of enactment. Congress does intend, however, to benefit consumers where possible and consistent with existing copyright law and principles.

This Act attempts to strike a balance among a variety of public policy goals. While increasing the number of potential subscribers to distant network signals, this Act clarifies that satellite carriers may carry up to, but no more than, two stations affiliated with the same network. The original purpose of the Satellite Home Viewer Act was to ensure that all Americans could receive network programming and other television services provided they could not receive those services over-the-air or in any other way. This bill reflects the desire of the Conference to meet this requirement and consumers' expectations to receive the traditional level of satellite service that has built up over the years, while avoiding an erosion of the programming market affected by the statutory licenses.

Section 1004. Computation of Royalty Fees for Satellite Carriers

Like both the House bill and the Senate amendment, this Act reduces the royalty fees currently paid by satellite carriers for the retransmission of network and superstations by 45 percent and 30 percent, respectively. These are reductions of the 27–cent royalty fees made effective by the Librarian of Congress on January 1, 1998. The reductions take effect on July 1, 1999, which is the beginning of the second accounting period for 1999, and apply to all accounting periods for the five-year extension of the section 119 license. The Committee has drafted this provision such that, if the section 119 license is renewed after 2004, the 45 percent and 30 percent reductions of the 27–cent fee will remain in effect, unless altered by legislative amendment.

In addition, section 119(c) of title 17, United States Code, is amended to clarify that in royalty distribution proceedings conducted under section 802 of the Copyright Act, the Public Broadcasting Service may act as agent for all public television copyright claimants and all Public Broadcasting Service member stations.

Section 1005. Distant Signal Eligibility for Consumers

The Senate bill contained provisions retaining the existing Grade B intensity standard in the definition of ''unserved household.'' The House agreed to the Senate provisions with amendments, which extend the ''unserved household'' definition of section 119 of title 17 intact in certain respects and amend it in other respects. Consistent with the approach of the Senate amendment, the central feature of the existing definition of ''unserved household''—inability to receive, through use of a conventional outdoor rooftop receiving antenna, a signal of Grade B intensity from a primary network station—remains intact. The legislation directs the FCC, however, to examine the definition of ''Grade B intensity,'' reflecting the dBu levels long set by the Federal Communications Commission in 47 C.F.R. §73.683(a), and issue a rulemaking within 6 months after enactment to evaluate the standard and, if appropriate, make recommendations to Congress about how to modify the analog standard, and make a further recommendation about what an appropriate standard would be for digital signals. In this fashion, the Congress will have the best input and recommendations from the Commission, allowing the Commission wide latitude in its inquiry and recommendations, but reserve for itself the final decision-making authority over the scope of the copyright licenses in question, in light of all relevant factors.

The amended definition of ''unserved household'' makes other consumer-friendly changes. It will eliminate the requirement that a cable subscriber wait 90 days to be eligible for satellite delivery of distant network signals. After enactment, cable subscribers will be eligible to receive distant network signals by satellite, upon choosing to do so, if they satisfy the other requirements of section 119.

In addition, this Act adds three new categories to the definition of ''unserved household'' in section 119(d)(10): (a) certain subscribers to network programming who are not predicted to receive a signal of Grade A intensity from any station of the relevant network, (b) operators of recreational vehicles and commercial trucks who have complied with certain documentation requirements, and (c) certain C-band subscribers to network programming. This Act also confirms in new section 119(d)(10)(B) what has long been understood by the parties and accepted by the courts, namely that a subscriber may receive distant network service if all network stations affiliated with the relevant network that are predicted to serve that subscriber give their written consent.

Section 1005(a)(2) of the bill creates a new section 119(a)(2)(B)(i) of the Copyright Act to prohibit a satellite carrier from delivering more than two distant TV stations affiliated with a single network in a single day to a particular customer. This clarifies that a satellite carrier provides a signal of a television station throughout the broadcast day, rather than switching between stations throughout a day to pick the best programming among different signals.

Section 1005(a)(2) of this Act creates a new section 119(a)(2)(B)(ii)(I) of the Copyright Act to confirm that courts should rely on the FCC's ILLR model to presumptively determine whether a household is capable of receiving a signal of Grade B intensity. The conferees understand that the parties to copyright infringement litigation under the Satellite Home Viewer Act have agreed on detailed procedures for implementing the current version of ILLR, and nothing in this Act requires any change in those procedures. In the future, when the FCC amends the ILLR model to make it more accurate pursuant to section 339(c)(3) of the Communications Act of 1934, the amended model should be used in place of the current version of ILLR. The new language also confirms in new section 119(a)(2)(B)(ii)(II) that the ultimate determination of eligibility to receive network signals shall be a signal intensity test pursuant to 47 C.F.R. §73.686(d), as reflected in new section 339(c)(5) of the Communications Act of 1934. Again, the conferees understand that existing Satellite Home Viewer Act court orders already incorporate this FCC-approved measurement method, and nothing in this Act requires any change in such orders. Such a signal intensity test may be conducted by any party to resolve a customer's eligibility in litigation under section 119.

Section 1005(a)(2) of this Act creates a new section 119(a)(2)(B)(iii) of the Copyright Act to permit continued delivery by means of C-band transmissions of network stations to C-band dish owners who received signals of the pertinent network on October 31, 1999, or were recently required to have such service terminated pursuant to court orders or settlements under section 119. This provision does not authorize satellite delivery of network stations to such persons by any technology other than C-band.

Section 1005(b) also adds a new provision (E) to section 119(a)(5). The purpose of this provision is to allow certain longstanding superstations to continue to be delivered to satellite customers without regard to the ''unserved household'' limitation, even if the station now technically qualifies as a ''network station'' under the 15–hour-per-week definition of the Act. This exception will cease to apply if such a station in the future becomes affiliated with one of the four networks (ABC, CBS, Fox, and NBC) that qualified as networks as of January 1, 1995.

Section 1005(c) of this Act adds a new section 119(e) of the Copyright Act. This provision contains a moratorium on terminations of network stations to certain otherwise ineligible recent subscribers to network programming whose service has been (or soon would have been) terminated and allows them to continue to be eligible for distant signal services. The subscribers affected are those predicted by the current version of the ILLR model to receive a signal of less than Grade A intensity from any network station of the relevant network defined in section 73.683(a) of Commission regulations (47 C.F.R. 73.683(a)) as in effect January 1, 1999. As the statutory language reflects, recent court orders and settlements between the satellite and broadcasting industries have required (or will in the near future require) significant numbers of terminations of network stations to ineligible subscribers in this category. Although the conferees strongly condemn lawbreaking by satellite carriers, and intend for satellite carriers to be subject to all other available legal remedies for any infringements in which the carriers have engaged, the conferees have concluded that the public interest will be served by the grandfathering of this limited category of subscribers whose service would otherwise be terminated.

The decision by the conferees to direct this limited grandfathering should not be understood as condoning unlawful conduct by satellite carriers, but rather reflects the concern of the conference for those subscribers who would otherwise be punished for the actions of the satellite carriers. Note that in the previous 18 months, court decisions have required the termination of some distant network signals to some subscribers. However, the Conferees are aware that in some cases satellite carriers terminated distant network service that was not subject to the original lawsuit. The Conferees intend that affected subscribers remain eligible for such service.

The words ''shall remain eligible'' in section 119(e) refer to eligibility to receive stations affiliated with the same network from the same satellite carrier through use of the same transmission technology at the same location; in other words, grandfathered status is not transferable to a different carrier or a different type of dish or at a new address. The provisions of new section 119(e) are incorporated by reference in the definition of ''unserved household'' as new section 119(d)(10)(C).

Section 1005(d) of this Act creates a new section 119(a)(11), which contains provisions governing delivery of network stations to recreational vehicles and commercial trucks. This provision is, in turn, incorporated in the definition of ''unserved household'' in new section 119(d)(10)(D). The purpose of these amendments is to allow the operators of recreational vehicles and commercial trucks to use satellite dishes permanently attached to those vehicles to receive, on television sets located inside those vehicles, distant network signals pursuant to section 119. To prevent abuse of this provision, the exception for recreational vehicles and commercial trucks is limited to persons who have strictly complied with the documentation requirements set forth in section 119(a)(11). Among other things, the exception will only become available as to a particular recreational vehicle or commercial truck after the satellite carrier has provided all affected networks with all documentation set forth in section 119(a). The exception will apply only for reception in that particular recreational vehicle or truck, and does not authorize any delivery of network stations to any fixed dwelling.

Section 1006. Public Broadcasting Service Satellite Feed

The conference agreement follows the Senate bill with an amendment that applies the network copyright royalty rate to the Public Broadcasting Service the satellite feed. The conference agreement grants satellite carriers a section 119 compulsory license to retransmit a national satellite feed distributed and designated by PBS. The license would apply to educational and informational programming to which PBS currently holds broadcast rights. The license, which would extend to all households in the United States, would sunset on January 1, 2002, the date when local-to-local must-carry obligations become effective. Under the conference agreement, PBS will designate the national satellite feed for purposes of this section.

Section 1007. Application of Federal Communications Commission Regulations

The section 119 license is amended to clarify that satellite carriers must comply with all rules, regulations, and authorizations of the Federal Communications Commission in order to obtain the benefits of the section 119 license. As provided in the House bill, this would include any programming exclusivity provisions or carriage requirements that the Commission may adopt. Violations of such rules, regulations or authorizations would render a carrier ineligible for the copyright statutory license with respect to that retransmission.

Section 1008. Rules for Satellite Carriers Retransmitting Television Broadcast Signals

The Senate agrees to the House bill provisions regarding carriage of television broadcast signals, with certain amendments, as discussed below. Section 108 creates new sections 338 and 339 of the Communications Act of 1934. Section 338 addresses carriage of local television signals, while section 339 addresses distant television signals.

New section 338 requires satellite carriers, by January 1, 2002, to carry upon request all local broadcast stations' signals in local markets in which the satellite carriers carry at least one signal pursuant to section 122 of title 17, United States Code. The conference report added the cross-reference to section 122 to the House provision to indicate the relationship between the benefits of the statutory license and the carriage requirements imposed by this Act. Thus, the conference report provides that, as of January 1, 2002, royalty-free copyright licenses for satellite carriers to retransmit broadcast signals to viewers in the broadcasters' service areas will be available only on a market-by-market basis.

The procedural provisions applicable to section 338 (concerning costs, avoidance of duplication, channel positioning, compensation for carriage, and complaints by broadcast stations) are generally parallel to those applicable to cable systems. Within one year after enactment, the Federal Communications Commission is to issue implementing regulations which are to impose obligations comparable to those imposed on cable systems under paragraphs (3) and (4) of section 614(b) and paragraphs (1) and (2) of section 615(g), such as the requirement to carry a station's entire signal without additions or deletions. The obligation to carry local stations on contiguous channels is illustrative of the general requirement to ensure that satellite carriers position local stations in a way that is convenient and practically accessible for consumers. By directing the FCC to promulgate these must-carry rules, the conferees do not take any position regarding the application of must-carry rules to carriage of digital television signals by either cable or satellite systems.

To make use of the local license, satellite carriers must provide the local broadcast station signal as part of their satellite service, in a manner consistent with paragraphs (b), (c), (d), and (e), FCC regulations, and retransmission consent requirements. Until January 1, 2002, satellite carriers are granted a royalty-free copyright license to retransmit broadcast signals on a station-by-station basis, consistent with retransmission consent requirements. The transition period is intended to provide the satellite industry with a transitional period to begin providing local-into-local satellite service to communities throughout the country.

The conferees believe that the must-carry provisions of this Act neither implicate nor violate the First Amendment. Rather than requiring carriage of stations in the manner of cable's mandated duty, this Act allows a satellite carrier to choose whether to incur the must-carry obligation in a particular market in exchange for the benefits of the local statutory license. It does not deprive any programmers of potential access to carriage by satellite carriers. Satellite carriers remain free to carry any programming for which they are able to acquire the property rights. The provisions of this Act allow carriers an easier and more inexpensive way to obtain the right to use the property of copyright holders when they retransmit signals from all of a market's broadcast stations to subscribers in that market. The choice whether to retransmit those signals is made by carriers, not by the Congress. The proposed licenses are a matter of legislative grace, in the nature of subsidies to satellite carriers, and reviewable under the rational basis standard.[1]

In addition, the conferees are confident that the proposed license provisions would pass constitutional muster even if subjected to the O'Brien standard applied to the cable must-carry requirement.[2] The proposed provisions are intended to preserve free television for those not served by satellite or cable systems and to promote widespread dissemination of information from a multiplicity of sources. The Supreme Court has found both to be substantial interests, unrelated to the suppression of free expression.[3] Providing the proposed license on a market-by-market basis furthers both goals by preventing satellite carriers from choosing to carry only certain stations and effectively preventing many other local broadcasters from reaching potential viewers in their service areas. The Conference Committee is concerned that, absent must-carry obligations, satellite carriers would carry the major network affiliates and few other signals. Non-carried stations would face the same loss of viewership Congress previously found with respect to cable noncarriage.[4]

The proposed licenses place satellite carrier in a comparable position to cable systems, competing for the same customers. Applying a must-carry rule in markets which satellite carriers choose to serve benefits consumers and enhances competition with cable by allowing consumers the same range of choice in local programming they receive through cable service. The conferees expect that, by January 1, 2002, satellite carriers' market share will have increased and that the Congress' interest in maintaining free over-the-air television will be undermined if local broadcasters are prevented from reaching viewers by either cable or satellite distribution systems. The Congress' preference for must-carry obligations has already been proven effective, as attested by the appearance of several emerging networks, which often serve underserved market segments. There are no narrower alternatives that would achieve the Congress' goals. Although the conferees expect that subscribers who receive no broadcast signals at all from their satellite service may install antennas or subscribe to cable service in addition to satellite service, the Conference Committee is less sanguine that subscribers who receive network signals and hundreds of other programming choices from their satellite carrier will undertake such trouble and expense to obtain over-the-air signals from independent broadcast stations. National feeds would also be counterproductive because they siphon potential viewers from local over-the-air affiliates. In sum, the Conference Committee finds that trading the benefits of the copyright license for the must carry requirement is a fair and reasonable way of helping viewers have access to all local programming while benefitting satellite carriers and their customers.

Section 338(c) contains a limited exception to the general must-carry requirements, stating that a satellite carrier need not carry two local affiliates of the same network that substantially duplicate each others' programming, unless the duplicating stations are licensed to communities in different states. The latter provisions address unique and limited cases, including WMUR (Manchester, New Hampshire) / WCVB (Boston, Massachusetts) and WPTZ (Plattsburg, New York)/ WNNE (White River Junction, Vermont), in which mandatory carriage of both duplicating local stations upon request assures that satellite subscribers will not be precluded from receiving the network affiliate that is licensed to the state in which they reside.

Because of unique technical challenges on satellite technology and constraints on the use of satellite spectrum, satellite carriers may initially be limited in their ability to deliver must carry signals into multiple markets. New compression technologies, such as video streaming, may help overcome these barriers however, and, if deployed, could enable satellite carriers to deliver must-carry signals into many more markets than they could otherwise. Accordingly, the conferees urge the FCC, pursuant to its obligations under section 338, or in any other related proceedings, to not prohibit satellite carriers from using reasonable compression, reformatting, or similar technologies to meet their carriage obligations, consistent with existing authority.

* * * * *

New section 339 of the Communications Act contains provisions concerning carriage of distant television stations by satellite carriers. Section 339(a)(1) limits satellite carriers to providing a subscriber with no more than two stations affiliated with a given television network from outside the local market. In addition, a satellite carrier that provides two distant signals to eligible households may also provide the local television signals pursuant to section 122 of title 17 if the subscriber offers local-to-local service in the subscriber's market. This provision furthers the congressional policy of localism and diversity of broadcast programming, which provides locally-relevant news, weather, and information, but also allows consumers in unserved households to enjoy network programming obtained via distant signals. Under new section 339(a)(2), which is based on the Senate amendment, the knowing and willful provision of distant television signals in violation of these restrictions is subject to a forfeiture penalty under section 503 of the Communications Act of $50,000 per violation or for each day of a continuing violation.

New section 339(b)(1)(A) requires the Commission to commence within 45 days of enactment, and complete within one year after the date of enactment, a rulemaking to develop regulations to apply network nonduplication, syndicated exclusivity and sports blackout rules to the transmission of nationally distributed superstations by satellite carriers. New section 339(b)(1)(B) requires the Commission to promulgate regulations on the same schedule with regard to the application of sports blackout rules to network stations. These regulations under subparagraph (B) are to be imposed ''to the extent technically feasible and not economically prohibitive'' with respect to the affected parties. The burden of showing that conforming to rules similar to cable would be ''economically prohibitive'' is a heavy one. It would entail a very serious economic threat to the health of the carrier. Without that showing, the rules should be as similar as possible to that applicable to cable services.

Section 339(c) of the Communications Act of 1934 addresses the three distinct areas discussed by the Commission in its Report & Order in Docket No. 98–201: (i) the definition of ''Grade B intensity,'' which is the substantive standard for determining eligibility to receive distant network stations by satellite, (ii) prediction of whether a signal of Grade B intensity from a particular station is present at a particular household, and (iii) measurement of whether a signal of Grade B intensity from a particular station is present

See footnotes at end of Analysis.

at a particular household. Section 339(c) addresses each of these topics.

New section 339(c) addresses evaluation and possible recommendations for modification by the Commission of the definition of Grade B intensity, which is incorporated into the definition of ''unserved household'' in section 119 of the Copyright Act. Under section 339(c), the Commission is to complete a rulemaking within 1 year after enactment to evaluate, and if appropriate to recommend modifications to the Grade B intensity standard for analog signals set forth in 47 C.F.R. §73.683(a), for purposes of determining eligibility for distant signal satellite service. In addition, the Commission is to recommend a signal standard for digital signals to prepare Congress to update the statutory license for digital television broadcasting. The Committee intends that this report would reflect the FCC's best recommendations in light of all relevant considerations, and be based on whatever factors and information the Commission deems relevant to determining whether the signal intensity standard should be modified and in what way. As discussed above, the two-part process allows the Commission to recommend modifications leaving to Congress the decision-making power on modifications of the copyright licenses at issue.

Section 339(c)(3) addresses requests to local television stations by consumers for waivers of the eligibility requirements under section 119 of title 17, United States Code. If a satellite carrier is barred from delivering distant network signals to a particular customer because the ILLR model predicts the customer to be served by one or more television stations affiliated with the relevant network, the consumer may submit to those stations, through his or her satellite carrier, a written request for a waiver. The statutory phrase ''station asserting that the retransmission is prohibited'' refers to a station that is predicted by the ILLR model to serve the household. Each such station must accept or reject the waiver request within 30 days after receiving the request from the satellite carrier. If a relevant network station grants the requested waiver, or fails to act on the waiver within 30 days, the viewer shall be deemed unserved with respect to the local network station in question.

Section 339(c)(4) addresses the ILLR predictive model developed by the Commission in Docket No. 98–201. The provision requires the Commission to attempt to increase its accuracy further by taking into account not only terrain, as the ILLR model does now, but also land cover variations such as buildings and vegetation. If the Commission discovers other practical ways to improve the accuracy of the ILLR model still further, it shall implement those methods as well. The linchpin of whether particular proposed refinements to the ILLR model result in greater accuracy is whether the revised model's predictions are closer to the results of actual field testing in terms of predicting whether households are served by a local affiliate of the relevant network.

The ILLR model of predicting subscribers' eligibility will be of particular use in rural areas. To make the ILLR more accurate and more useful to this group of Americans, the Conference Committee believes the Commission should be particularly careful to ensure that the ILLR is accurate in areas that use star routes, postal routes, or other addressing systems that may not indicate clearly the location of the actual dwelling of a potential subscriber. The Commission should to ensure the model accurately predicts the signal strength at the viewers' actual location.

New section 339(c)(5) addresses the third area discussed in the Commission's Report & Order in Docket No. 98–201, namely signal intensity testing. This provision permits satellite carriers and broadcasters to carry out signal intensity measurements, using the procedures set forth by the Commission in 47 C.F.R. §73.686(d), to determine whether particular households are unserved. Unless the parties otherwise agree, any such tests shall be conducted on a ''loser pays'' basis, with the network station bearing the costs of tests showing the household to be unserved, and the satellite carrier bearing the costs of tests showing the household to be served. If the satellite carrier and station is unable to agree on a qualified individual to perform the test, the Commission is to designate an independent and neutral entity by rule. The Commission is to promulgate rules that avoid any undue burdens being imposed on any party.

Section 1009. Retransmission Consent

Section 1009 amends the provisions of section 325 of the Communications Act governing retransmission consent. As revised, section 325(b)(1) bars multichannel video programming distributors from retransmitting the signals of television broadcast stations, or any part thereof, without the express authority of the originating station. Section 325(b)(2) contains several exceptions to this general prohibition, including noncommercial stations, certain superstations, and, until the end of 2004, retransmission of not more than two distant signals by satellite carriers to unserved households outside of the local market of the retransmitted stations, and (E) for six months to the retransmission of local stations pursuant to the statutory license in section 122 of the title 17.

Section 1009 also amends section 325(b) of the Communications Act to require the Commission to issue regulations concerning the exercise by television broadcast stations of the right to grant retransmission consent. The regulations would, until January 1, 2006, prohibit a television broadcast station from entering into an exclusive retransmission consent agreement with a multichannel video programming distributor or refusing to negotiate in good faith regarding retransmission consent agreements. A television station may generally offer different retransmission consent terms or conditions, including price terms, to different distributors. The FCC may determine that such different terms represent a failure to negotiate in good faith only if they are not based on competitive marketplace considerations.

Section 1009 of the bill adds a new subsection (e) to section 325 of the Communications Act. New subsection 325(e) creates a set of expedited enforcement procedures for the alleged retransmission of a television broadcast station in its own local market without the station's consent. The purpose of these expedited procedure is to ensure that delays in obtaining relief from violations do not make the right to retransmission consent an empty one. The new provision requires 45–day processing of local-to-local retransmission consent complaints at the Commission, followed by expedited enforcement of any Commission orders in the United States District Court for the Eastern District of Virginia. In addition, a television broadcast station that has been retransmitted in its local market without its consent will be entitled to statutory damages of $25,000 per violation in an action in federal district court. Such damages will be awarded only if the television broadcast station agrees to contribute any statutory damage award above $1,000 to the United States Treasury for public purposes. The expedited enforcement provision contains a sunset which prevents the filing of any complaint with the Commission or any action in federal district court to enforce any Commission order under this section after December 31, 2001. The conferees believe that these procedural provisions, which provide ample due process protections while ensuring speedy enforcement, will ensure that retransmission consent will be respected by all parties and promote a smoothly functioning marketplace.

Section 1010. Severability

Section 1010 of the Act provides that if any provision of section 325(b) of the Communications Act as amended by this Act is declared unconstitutional, the remaining provisions of that section will stand.

Section 1011. Technical Amendments

Section 1011 of this Act makes technical and conforming amendments to sections 101, 111, 119, 501, and 510 of the Copyright Act. Apart from these technical amendments, this legislation makes no changes to section 111 of the Copyright Act. In particular, nothing in this legislation makes any changes concerning entitlement or eligibility for the statutory licenses under sections 111 and 119, nor specifically to the definitions of ''cable system'' under section 111(f), and ''satellite carrier'' under section 119(d)(6). Certain technical amendments to these definitions that were included in the Conference Report to the Intellectual Property and Communications Omnibus Reform Act (IPCORA) of 1999 are not included in this legislation. Congress intends that neither the courts nor the Copyright Office give any legal significance either to the inclusion of the amendments in the IPCORA conference report or their omission in this legislation. These statutory definitions are to be interpreted in the same way after enactment of this legislation as they were interpreted prior to enactment of this legislation.

Section 1011(b) makes a technical and clarifying change to the definition of a ''work made for hire'' in section 101 of the Copyright Act. Sound recordings have been registered in the Copyright Office as works made for hire since being protected in their own right. This clarifying amendment shall not be deemed to imply that any sound recording or any other work would not otherwise qualify as a work made for hire in the absence of the amendment made by this subsection.

Section 1012. Effective dates.

Under section 1012 of this Act, sections 1001, 1003, 1005, and 1007 through 1011 shall be effective on the date of enactment. The amendments made by sections 1002, 1004, and 1006 shall be effective as of July 1, 1999.

TITLE II—RURAL LOCAL TELEVISION SIGNALS

Section 2001. Short Title

This title may be referred to as the ''Rural Local Broadcast Signal Act.''

Section 2002. Local Television Service in Unserved and Underserved Markets

To encourage the FCC to approve needed licenses (or other authorizations to use spectrum) to provide local TV service in rural areas, the Commission is required to make determinations regarding needed licenses within one year of enactment.

However, the FCC shall ensure that no license or authorization provided under this section will cause ''harmful interference'' to the primary users of the spectrum or to public safety use. Subparagraph (2), states that the Commission shall not license under subsection (a) any facility that causes harmful interference to existing primary users of spectrum or to public safety use. The Commission typically categorizes a licensed service as primary or secondary. Under Commission rules, a secondary service cannot be authorized to operate in the same band as a

primary user of that band unless the proposed secondary user conclusively demonstrates that the proposed secondary use will not cause harmful interference to the primary service. The Commission is to define ''harmful interference'' pursuant to the definition at 47 C.F.R. section 2.1 and in accordance with Commission rules and policies.

For purposes of section 2005(b)(3) the FCC may consider a compression, reformatting or other technology to be unreasonable if the technology is incompatible with other applicable FCC regulation or policy under the Communications Act of 1934, as amended.

The Commission also may not restrict any entity granted a license or other authorization under this section, except as otherwise specified, from using any reasonable compression, reformatting, or other technology.

TITLE III—TRADEMARK CYBERPIRACY PREVENTION

Section 3001. Short Title; References

This section provides that the Act may be cited as the ''Anticybersquatting Consumer Protection Act'' and that any references within the bill to the Trademark Act of 1946 shall be a reference to the Act entitled ''An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes,'' approved July 5, 1946 (15 U.S.C. 1051 et seq.), also commonly referred to as the Lanham Act.

Sec. 3002. Cyberpiracy Prevention

Subsection (a). In General. This subsection amends the Trademark Act to provide an explicit trademark remedy for cybersquatting under a new section 43(d). Under paragraph (1)(A) of the new section 43(d), actionable conduct would include the registration, trafficking in, or use of a domain name that is identical or confusingly similar to, or dilutive of, the mark of another, including a personal name that is protected as a mark under section 43 of the Lanham Act, provided that the mark was distinctive (i.e., enjoyed trademark status) at the time the domain name was registered, or in the case of trademark dilution, was famous at the time the domain name was registered. The bill is carefully and narrowly tailored, however, to extend only to cases where the plaintiff can demonstrate that the defendant registered, trafficked in, or used the offending domain name with bad-faith intent to profit from the goodwill of a mark belonging to someone else. Thus, the bill does not extend to innocent domain name registrations by those who are unaware of another's use of the name, or even to someone who is aware of the trademark status of the name but registers a domain name containing the mark for any reason other than with bad faith intent to profit from the goodwill associated with that mark.

The phrase ''including a personal name which is protected as a mark under this section'' addresses situations in which a person's name is protected under section 43 of the Lanham Act and is used as a domain name. The Lanham Act prohibits the use of false designations of origin and false or misleading representations. Protection under 43 of the Lanham Act has been applied by the courts to personal names which function as marks, such as service marks, when such marks are infringed. Infringement may occur when the endorsement of products or services in interstate commerce is falsely implied through the use of a personal name, or otherwise, without regard to the goods or services of the parties. This protection also applies to domain names on the Internet, where falsely implied endorsements and other types of infringement can cause greater harm to the owner and confusion to a consumer in a shorter amount of time than is the case with traditional media. The protection offered by section 43 to a personal name which functions as a mark, as applied to domain names, is subject to the same fair use and first amendment protections as have been applied traditionally under trademark law, and is not intended to expand or limit any rights to publicity recognized by States under State law.

Paragraph (1)(B)(i) of the new section 43(d) sets forth a number of nonexclusive, nonexhaustive factors to assist a court in determining whether the required bad-faith element exists in any given case. These factors are designed to balance the property interests of trademark owners with the legitimate interests of Internet users and others who seek to make lawful uses of others' marks, including for purposes such as comparative advertising, comment, criticism, parody, news reporting, fair use, etc. The bill suggests a total of nine factors a court may wish to consider. The first four suggest circumstances that may tend to indicate an absence of bad-faith intent to profit from the goodwill of a mark, and the next four suggest circumstances that may tend to indicate that such bad-faith intent exits. The last factor may suggest either bad-faith or an absence thereof depending on the circumstances.

First, under paragraph (1)(B)(i)(I), a court may consider whether the domain name registrant has trademark or any other intellectual property rights in the name. This factor recognizes, as does trademark law in general, that there may be concurring uses of the same name that are noninfringing, such as the use of the ''Delta'' mark for both air travel and sink faucets. Similarly, the registration of the domain name ''deltaforce.com'' by a movie studio would not tend to indicate a bad faith intent on the part of the registrant to trade on Delta Airlines or Delta Faucets' trademarks.

Second, under paragraph (1)(B)(i)(II), a court may consider the extent to which the domain name is the same as the registrant's own legal name or a nickname by which that person is commonly identified. This factor recognizes, again as does the concept of fair use in trademark law, that a person should be able to be identified by their own name, whether in their business or on a web site. Similarly, a person may bear a legitimate nickname that is identical or similar to a well-known trademark, such as in the well-publicized case of the parents who registered the domain name ''pokey.org'' for their young son who goes by that name, and these individuals should not be deterred by this bill from using their name online. This factor is not intended to suggest that domain name registrants may evade the application of this act by merely adopting Exxon, Ford, or other well-known marks as their nicknames. It merely provides a court with the appropriate discretion to determine whether or not the fact that a person bears a nickname similar to a mark at issue is an indication of an absence of bad-faith on the part of the registrant.

Third, under paragraph (1)(B)(i)(III), a court may consider the domain name registrant's prior use, if any, of the domain name in connection with the bona fide offering of goods or services. Again, this factor recognizes that the legitimate use of the domain name in online commerce may be a good indicator of the intent of the person registering that name. Where the person has used the domain name in commerce without creating a likelihood of confusion as to the source or origin of the goods or services and has not otherwise attempted to use the name in order to profit from the goodwill of the trademark owner's name, a court may look to this as an indication of the absence of bad faith on the part of the registrant.

Fourth, under paragraph (1)(B)(i)(IV), a court may consider the person's bona fide noncommercial or fair use of the mark in a web site that is accessible under the domain name at issue. This factor is intended to balance the interests of trademark owners with the interests of those who would make lawful noncommercial or fair uses of others' marks online, such as in comparative advertising, comment, criticism, parody, news reporting, etc. Under the bill, the mere fact that the domain name is used for purposes of comparative advertising, comment, criticism, parody, news reporting, etc., would not alone establish a lack of bad-faith intent. The fact that a person uses a mark in a site in such a lawful manner may be an appropriate indication that the person's registration or use of the domain name lacked the required element of bad-faith. This factor is not intended to create a loophole that otherwise might swallow the bill, however, by allowing a domain name registrant to evade application of the Act by merely putting up a noninfringing site under an infringing domain name. For example, in the well know case of Panavision Int'l v. Toeppen, 141 F.3d 1316 (9th Cir. 1998), a well known cybersquatter had registered a host of domain names mirroring famous trademarks, including names for Panavision, Delta Airlines, Neiman Marcus, Eddie Bauer, Lufthansa, and more than 100 other marks, and had attempted to sell them to the mark owners for amounts in the range of $10,000 to $15,000 each. His use of the ''panavision.com'' and ''panaflex.com'' domain names was seemingly more innocuous, however, as they served as addresses for sites that merely displayed pictures of Pana Illinois and the word ''Hello'' respectively. This bill would not allow a person to evade the holding of that case—which found that Mr. Toeppen had made a commercial use of the Panavision marks and that such uses were, in fact, diluting under the Federal Trademark Dilution Act—merely by posting noninfringing uses of the trademark on a site accessible under the offending domain name, as Mr. Toeppen did. Similarly, the bill does not affect existing trademark law to the extent it has addressed the interplay between First Amendment protections and the rights of trademark owners. Rather, the bill gives courts the flexibility to weigh appropriate factors in determining whether the name was registered or used in bad faith, and it recognizes that one such factor may be the use the domain name registrant makes of the mark.

Fifth, under paragraph (1)(B)(i)(V), a court may consider whether, in registering or using the domain name, the registrant intended to divert consumers away from the trademark owner's website to a website that could harm the goodwill of the mark, either for purposes of commercial gain or with the intent to tarnish or disparage the mark, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site. This factor recognizes that one of the main reasons cybersquatters use other people's trademarks is to divert Internet users to their own sites by creating confusion as to the source, sponsorship, affiliation, or endorsement of the site. This is done for a number of reasons, including to pass off inferior goods under the name of a well-known mark holder, to defraud consumers into providing personally identifiable information, such as credit card numbers, to attract ''eyeballs'' to sites that price online advertising according to the number of ''hits'' the site receives, or even just to harm the value of the mark. Under this provision,

a court may give appropriate weight to evidence that a domain name registrant intended to confuse or deceive the public in this manner when making a determination of bad-faith intent.

Sixth, under paragraph (1)(B)(i)(VI), a court may consider a domain name registrant's offer to transfer, sell, or otherwise assign the domain name to the mark owner or any third party for financial gain, where the registrant has not used, and did not have any intent to use, the domain name in the bona fide offering of any goods or services. A court may also consider a person's prior conduct indicating a pattern of such conduct. This factor is consistent with the court cases, like the Panavision case mentioned above, where courts have found a defendant's offer to sell the domain name to the legitimate mark owner as being indicative of the defendant's intent to trade on the value of a trademark owner's marks by engaging in the business of registering those marks and selling them to the rightful trademark owners. It does not suggest that a court should consider the mere offer to sell a domain name to a mark owner or the failure to use a name in the bona fide offering of goods or services as sufficient to indicate bad faith. Indeed, there are cases in which a person registers a name in anticipation of a business venture that simply never pans out. And someone who has a legitimate registration of a domain name that mirrors someone else's domain name, such as a trademark owner that is a lawful concurrent user of that name with another trademark owner, may, in fact, wish to sell that name to the other trademark owner. This bill does not imply that these facts are an indication of bad-faith. It merely provides a court with the necessary discretion to recognize the evidence of bad-faith when it is present. In practice, the offer to sell domain names for exorbitant amounts to the rightful mark owner has been one of the most common threads in abusive domain name registrations. Finally, by using the financial gain standard, this paragraph allows a court to examine the motives of the seller.

Seventh, under paragraph (1)(B)(i)(VII), a court may consider the registrant's intentional provision of material and misleading false contact information in an application for the domain name registration, the person's intentional failure to maintain accurate contact information, and the person's prior conduct indicating a pattern of such conduct. Falsification of contact information with the intent to evade identification and service of process by trademark owners is also a common thread in cases of cybersquatting. This factor recognizes that fact, while still recognizing that there may be circumstances in which the provision of false information may be due to other factors, such as mistake or, as some have suggested in the case of political dissidents, for purposes of anonymity. This bill balances those factors by limiting consideration to the person's contact information, and even then requiring that the provision of false information be material and misleading. As with the other factors, this factor is nonexclusive and a court is called upon to make a determination based on the facts presented whether or not the provision of false information does, in fact, indicate bad-faith.

Eight, under paragraph (1)(B)(i)(VIII), a court may consider the domain name registrant's acquisition of multiple domain names which the person knows are identical or confusingly similar to, or dilutive of, others' marks. This factor recognizes the increasingly common cybersquatting practice known as ''warehousing'', in which a cybersquatter registers multiple domain names—sometimes hundreds, even thousands—that mirror the trademarks of others. By sitting on these marks and not making the first move to offer to sell them to the mark owner, these cybersquatters have been largely successful in evading the case law developed under the Federal Trademark Dilution Act. This bill does not suggest that the mere registration of multiple domain names is an indication of bad faith, but it allows a court to weigh the fact that a person has registered multiple domain names that infringe or dilute the trademarks of others as part of its consideration of whether the requisite bad-faith intent exists.

Lastly, under paragraph (1)(B)(i)(IX), a court may consider the extent to which the mark incorporated in the person's domain name registration is or is not distinctive and famous within the meaning of subsection (c)(1) of section 43 of the Trademark Act of 1946. The more distinctive or famous a mark has become, the more likely the owner of that mark is deserving of the relief available under this act. At the same time, the fact that a mark is not well-known may also suggest a lack of bad-faith.

Paragraph (1)(B)(ii) underscores the bad-faith requirement by making clear that bad-faith shall not be found in any case in which the court determines that the person believed and had reasonable grounds to believe that the use of the domain name was a fair use or otherwise lawful.

Paragraph (1)(C) makes clear that in any civil action brought under the new section 43(d), a court may order the forfeiture, cancellation, or transfer of a domain name to the owner of the mark.

Paragraph (1)(D) clarifies that a prohibited ''use'' of a domain name under the bill applies only to a use by the domain name registrant or that registrant's authorized licensee.

Paragraph (1)(E) defines what means to ''traffic in'' a domain name. Under this Act, ''traffics in'' refers to transactions that include, but are not limited to, sales, purchases, loans, pledges, licenses, exchanges of currency, and any other transfer for consideration or receipt in exchange for consideration.

Paragraph (2)(A) provides for in rem jurisdiction, which allows a mark owner to seek the forfeiture, cancellation, or transfer of an infringing domain name by filing an in rem action against the name itself, where the mark owner has satisfied the court that it has exercised due diligence in trying to locate the owner of the domain name but is unable to do so, or where the mark owner is otherwise unable to obtain in personam jurisdiction over such person. As indicated above, a significant problem faced by trademark owners in the fight against cybersquatting is the fact that many cybersquatters register domain names under aliases or otherwise provide false information in their registration applications in order to avoid identification and service of process by the mark owner. This bill will alleviate this difficulty, while protecting the notions of fair play and substantial justice, by enabling a mark owner to seek an injunction against the infringing property in those cases where, after due diligence, a mark owner is unable to proceed against the domain name registrant because the registrant has provided false contact information and is otherwise not to be found, or where a court is unable to assert personal jurisdiction over such person, provided the mark owner can show that the domain name itself violates substantive federal trademark law (i.e., that the domain name violates the rights of the registrant of a mark registered in the Patent and Trademark Office, or section 43(a) or (c) of the Trademark Act). Under the bill, a mark owner will be deemed to have exercised due diligence in trying to find a defendant if the mark owner sends notice of the alleged violation and intent to proceed to the domain name registrant at the postal and e-mail address provided by the registrant to the registrar and publishes notice of the action as the court may direct promptly after filing the action. Such acts are deemed to constitute service of process by paragraph (2)(B).

The concept of in rem jurisdiction has been with us since well before the Supreme Court's landmark decision in Pennoyer v. Neff, 95 U.S. 714 (1877). Although more recent decisions have called into question the viability of quasi in rem ''attachment'' jurisdiction, see Shaffer v. Heitner, 433 U.S. 186 (1977), the Court has expressly acknowledged the propriety of true in rem proceedings (or even type I quasi in rem proceedings[5]) where ''claims to the property itself are the source of the underlying controversy between the plaintiff and the defendant.'' Id. at 207–08. The Act clarifies the availability of in rem jurisdiction in appropriate cases involving claims by trademark holders against cyberpirates. In so doing, the Act reinforces the view that in rem jurisdiction has continuing constitutional vitality, see R.M.S. Titanic, Inc. v. Haver, 171 F.3d 943, 957–58 (4th Cir. 1999) (''In rem actions only require that a party seeking an interest in a res bring the res into the custody of the court and provide reasonable, public notice of its intention to enable others to appear in the action to claim an interest in the res.''); Chapman v. Vande Bunte, 604 F. Supp. 714, 716–17 (E.D. N.C. 1985) (''In a true in rem proceeding, in order to subject property to a judgment in rem, due process requires only that the property itself have certain minimum contacts with the territory of the forum.'').

By authorizing in rem jurisdiction, the Act also attempts to respond to the problems faced by trademark holders in attempting to effect personal service of process on cyberpirates. In an effort to avoid being held accountable for their infringement or dilution of famous trademarks, cyberpirates often have registered domain names under fictitious names and addresses or have used offshore addresses or companies to register domain names. Even when they actually do receive notice of a trademark holder's claim, cyberpirates often either refuse to acknowledge demands from a trademark holder altogether, or simply respond to an initial demand and then ignore all further efforts by the trademark holder to secure the cyberpirate's compliance. The in rem provisions of the Act accordingly contemplate that a trademark holder may initiate in rem proceedings in cases where domain name registrants are not subject to personal jurisdiction or cannot reasonably be found by the trademark holder.

Paragraph (2)(C) provides that in an in rem proceeding, a domain name shall be deemed to have its situs in the judicial district in which (1) the domain name registrar, registry, or other domain name authority that registered or assigned the domain name is located, or (2) documents sufficient to establish control and authority regarding the disposition of the registration and use of the domain name are deposited with the court.

Paragraph (2)(D) limits the relief available in such an in rem action to an injunction ordering the forfeiture, cancellation, or transfer of the domain name. Upon receipt of a written notification of the complaint, the domain name registrar, registry, or other authority is required to deposit with the court documents sufficient to establish the court's control and authority regarding the disposition of the registration and use of the domain name to the court, and may not transfer, suspend, or otherwise modify the domain name during the pendency of the action, except upon order of the court. Such domain

name registrar, registry, or other authority is immune from injunctive or monetary relief in such an action, except in the case of bad faith or reckless disregard, which would include a willful failure to comply with any such court order.

Paragraph (3) makes clear that the new civil action created by this Act and the in rem action established therein, and any remedies available under such actions, shall be in addition to any other civil action or remedy otherwise applicable. This paragraph thus makes clear that the creation of a new section 43(d) in the Trademark Act does not in any way limit the application of current provisions of trademark, unfair competition and false advertising, or dilution law, or other remedies under counterfeiting or other statutes, to cybersquatting cases.

Paragraph (4) makes clear that the in rem jurisdiction established by the bill is in addition to any other jurisdiction that otherwise exists, whether in rem or in personam.

Subsection (b). Cyberpiracy Protection for Individuals

Subsection (b) prohibits the registration of a domain name that is the name of another living person, or a name that is substantially and confusingly similar thereto, without such person's permission, if the registrant's specific intent is to profit from the domain name by selling it for financial gain to such person or a third party. While the provision is broad enough to apply to the registration of full names (e.g., johndoe.com), appellations (e.g., doe.com), and variations thereon (e.g. john-doe.com or jondoe.com), the provision is still very narrow in that it requires a showing that the registrant of the domain name registered that name with a specific intent to profit from the name by selling it to that person or to a third party for financial gain. This section authorizes the court to grant injunctive relief, including ordering the forfeiture or cancellation of the domain name or the transfer of the domain name to the plaintiff. Although the subsection does not authorize a court to grant monetary damages, the court may award costs and attorneys' fees to the prevailing party in appropriate cases.

This subsection does not prohibit the registration of a domain name in good faith by an owner or licensee of a copyrighted work, such as an audiovisual work, a sound recording, a book, or other work of authorship, where the personal name is used in, affiliated with, or related to that work, where the person's intent in registering the domain is not to sell the domain name other than in conjunction with the lawful exploitation of the work, and where such registration is not prohibited by a contract between the domain name registered and the named person. This limited exemption recognizes the First Amendment issues that may arise in such cases and defers to existing bodies of law that have developed under State and Federal law to address such uses of personal names in conjunction with works of expression. Such an exemption is not intended to provide a loophole for those whose specific intent is to profit from another's name by selling the domain name to that person or a third party other than in conjunction with the bona fide exploitation of a legitimate work of authorship. For example, the registration of a domain name containing a personal name by the author of a screenplay that bears the same name, with the intent to sell the domain name in conjunction with the sale or license of the screenplay to a production studio would not be barred by this subsection, although other provisions of State or Federal law may apply. On the other hand, the exemption for good faith registrations of domain names tied to legitimate works of authorship would not exempt a person who registers a personal name as a domain name with the intent to sell the domain name by itself, or in conjunction with a work of authorship (e.g., a copyrighted web page) where the real object of the sale is the domain name, rather than the copyrighted work.

In sum, this subsection is a narrow provision intended to curtail one form of ''cybersquatting''—the act of registering someone else's name as a domain name for the purpose of demanding remuneration from the person in exchange for the domain name. Neither this section nor any other section in this bill is intended to create a right of publicity of any kind with respect to domain names. Nor is it intended to create any new property rights, intellectual or otherwise, in a domain name that is the name of a person. This subsection applies prospectively only, affecting only those domain names registered on or after the date of enactment of this Act.

Sec. 3003. Damages and Remedies

This section applies traditional trademark remedies, including injunctive relief, recovery of defendant's profits, actual damages, and costs, to cybersquatting cases under the new section 43(d) of the Trademark Act. The bill also amends section 35 of the Trademark Act to provide for statutory damages in cybersquatting cases, in an amount of not less than $1,000 and not more than $100,000 per domain name, as the court considers just.

Sec. 3004. Limitation on Liability

This section amends section 32(2) of the Trademark Act to extend the Trademark Act's existing limitations on liability to the cybersquatting context. This section also creates a new subparagraph (D) in section 32(2) to encourage domain name registrars and registries to work with trademark owners to prevent cybersquatting through a limited exemption from liability for domain name registrars and registries that suspend, cancel, or transfer domain names pursuant to a court order or in the implementation of a reasonable policy prohibiting cybersquatting. Under this exemption, a registrar, registry, or other domain name registration authority that suspends, cancels, or transfers a domain name pursuant to a court order or a reasonable policy prohibiting cybersquatting will not be held liable for monetary damages, and will be not be subject to injunctive relief provided that the registrar, registry, or other registration authority has deposited control of the domain name with a court in which an action has been filed regarding the disposition of the domain name, it has not transferred, suspended, or otherwise modified the domain name during the pendency of the action, other than in response to a court order, and it has not willfully failed to comply with any such court order. Thus, the exemption will allow a domain name registrar, registry, or other registration authority to avoid being joined in a civil action regarding the disposition of a domain name that has been taken down pursuant to a dispute resolution policy, provided the court has obtained control over the name from the registrar, registry, or other registration authority, but such registrar, registry, or other registration authority would not be immune from suit for injunctive relief where no such action has been filed or where the registrar, registry, or other registration authority has transferred, suspended, or otherwise modified the domain name during the pendency of the action or wilfully failed to comply with a court order.

This section also protects the rights of domain name registrants against overreaching trademark owners. Under a new subparagraph (D)(iv) in section 32(2), a trademark owner who knowingly and materially misrepresents to the domain name registrar or registry that a domain name is infringing shall be liable to the domain name registrant for damages resulting from the suspension, cancellation, or transfer of the domain name. In addition, the court may grant injunctive relief to the domain name registrant by ordering the reactivation of the domain name or the transfer of the domain name back to the domain name registrant. In creating a new subparagraph (D)(iii) of section 32(2), this section codifies current case law limiting the secondary liability of domain name registrars and registries for the act of registration of a domain name, absent bad-faith on the part of the registrar and registry.

Finally, subparagraph (D)(v) provides additional protections for domain name holders by allowing a domain name registrant whose name has been suspended, disabled, or transferred to file a civil action to establish that the registration or use of the domain name by such registrant is not a violation of the Lanham Act. In such cases, a court may grant injunctive relief to the domain name registrant, including the reactivation of the domain name or transfer of the domain name to the domain name registrant.

Sec. 3005. Definitions

This section amends the Trademark Act's definitions section (section 45) to add definitions for key terms used in this Act. First, the term ''Internet'' is defined consistent with the meaning given that term in the Communications Act (47 U.S.C. 230(f)(1)). Second, this section creates a narrow definition of ''domain name'' to target the specific bad faith conduct sought to be addressed while excluding such things as screen names, file names, and other identifiers not assigned by a domain name registrar or registry.

Sec. 3006. Study on Abusive Domain Name Registrations Involving Personal Names

This section directs the Secretary of Commerce, in consultation with the Patent and Trademark Office and the Federal Election Commission, to conduct a study and report to Congress with recommendations on guidelines and procedures for resolving disputes involving the registration or use of domain names that include personal names of others or names that are confusingly similar thereto. This section further directs the Secretary of Commerce to collaborate with the Internet Corporation for Assigned Names and Numbers (ICANN) to develop guidelines and procedures for resolving disputes involving the registration or use of domain names that include personal names of others or names that are confusingly similar thereto.

Sec. 3007. Historic Preservation

This section provides a limited immunity from suit under trademark law for historic buildings that are on or eligible for inclusion on the National Register of Historic Places, or that are designated as an individual landmark or as a contributing building in a historic district.

Sec. 3008. Savings Clause

This section provides an explicit savings clause making clear that the bill does not affect traditional trademark defenses, such as fair use, or a person's first amendment rights.

Sec. 3009. Effective Date

This section provides that damages provided for under this bill shall not apply to the registration, trafficking, or use of a domain name that took place prior to the enactment of this Act.

TITLE VI—INVENTOR PROTECTION

Sec. 4001. Short Title

This title may be cited as the ''American Inventors Protection Act of 1999.''

Sec. 4002. Table of Contents

Section 4002 enumerates the table of contents of this title.

SUBTITLE A—INVENTORS' RIGHTS

Subtitle A creates a new section 297 in chapter 29 of title 35 of the United States Code, designed to curb the deceptive practices of certain invention promotion companies. Many of these companies advertise on television and in magazines that inventors may call a toll-free number for assistance in marketing their inventions. They are sent an invention evaluation form, which they are asked to complete to allow the promoter to provide expert analysis of the market potential of their inventions. The inventors return the form with descriptions of the inventions, which become the basis for contacts by salespeople at the promotion companies. The next step is usually a ''professional''-appearing product research report which contains nothing more than boilerplate information stating that the invention has outstanding market potential and fills an important need in the field. The promotion companies attempt to convince the inventor to buy their marketing services, normally on a sliding scale in which the promoter will ask for a front-end payment of up to $10,000 and a percentage of resulting profits, or a reduced front-end payment of $6,000 or $8,000 with commensurately larger royalties on profits. Once paid under such a scenario, a promoter will typically and only forward information to a list of companies that never respond.

This subtitle addresses these problems by (1) requiring an invention promoter to disclose certain materially relevant information to a customer in writing prior to entering into a contract for invention promotion services; (2) establishing a federal cause of action for inventors who are injured by material false of fraudulent statements or representations, or any omission of material fact, by an invention promoter, or by the invention promoter's failure to make the required written disclosures; and (3) requiring the Director of the United States Patent and Trademark Office to make publicly available complaints received involving invention promoters, along with the response to such complaints, if any, from the invention promoters.

Sec. 4101. Short title

This subtitle may be cited as the ''Inventors'' Rights Act of 1999.''

Sec. 4102. Integrity in invention promotion services

This section adds a new section 297 to in chapter 29 of title 35, United States Code, intended to promote integrity in invention promotion services. Legitimate invention assistance and development organizations can be of great assistance to novice inventors by providing information on how to protect an invention, how to develop it, how to obtain financing to manufacture it, or how to license or sell the invention. While many invention developers are legitimate, the unscrupulous ones take advantage of untutored inventors, asking for large sums of money up front for which they provide no real service in return. This new section provides a much needed safeguard to assist independent inventors in avoiding becoming victims of the predatory practices of unscrupulous invention promoters.

New section 297(a) of title 35 requires an invention promoter to disclose certain materially relevant information to a customer in writing prior to entering into a contract for invention promotion services. Such information includes: (1) The number of inventions evaluated by the invention promoter and stating the number of those evaluated positively and the number negatively; (2) The number of customers who have contracted for services with the invention promoter in the prior five years; (3) The number of customers known by the invention promoter to have received a net financial profit as a direct result of the invention promoter's services; (4) The number of customers known by the invention promoter to have received license agreements for their inventions as a direct result of the invention promoter's services; and (5) the names and addresses of all previous invention promotion companies with which the invention promoter or its officers have collectively or individually been affiliated in the previous 10 years to enable the customer to evaluate the reputations of these companies.

New section 297(b) of title 35 establishes a civil cause of action against any invention promoter who injures a customer through any material false or fraudulent statement, representation, or omission of material fact by the invention promoter, or any person acting on behalf of the invention promoter, or through failure of the invention promoter to make all the disclosures required under subsection (a). In such a civil action, the customer may recover, in addition to reasonable costs and attorneys' fees, the amount of actual damages incurred by the customer or, at the customer's election, statutory damages up to $5,000, as the court considers just. Subsection (b)(2) authorizes the court to increase damages to an amount not to exceed three times the amount awarded as statutory or actual damages in a case where the customer demonstrates, and the court finds, that the invention promoter intentionally misrepresented or omitted a material fact to such customer, or failed to make the required disclosures under subsection (a), for the purpose of deceiving the customer. In determining the amount of increased damages, courts may take into account whether regulatory sanctions or other corrective action has been taken as a result of previous complaints against the invention promoter.

New section 297(c) defines the terms used in the section. These definitions are carefully crafted to cover true invention promoters without casting the net too broadly. Paragraph (3) excepts from the definition of ''invention promoter'' departments and agencies of the Federal, state, and local governments; any nonprofit, charitable, scientific, or educational organizations qualified under applicable State laws or described under §170(b)(1)(A) of the Internal Revenue Code of 1986; persons or entities involved in evaluating the commercial potential of, or offering to license or sell, a utility patent or a previously filed nonprovisional utility patent application; any party participating in a transaction involving the sale of the stock or assets of a business; or any party who directly engages in the business of retail sales or distribution of products. Paragraph (4) defines the term ''invention promotion services'' to mean the procurement or attempted procurement for a customer of a firm, corporation, or other entity to develop and market products or services that include the customer's invention.

New section 297(d) requires the Director of the USPTO to make publicly available all complaints submitted to the USPTO regarding invention promoters, together with any responses by invention promoters to those complaints. The Director is required to notify the invention promoter of a complaint and provide a reasonable opportunity to reply prior to making such complaint public. Section 297(d)(2) authorizes the Director to request from Federal and State agencies copies of any complaints relating to invention promotion services they have received and to include those complaints in the records maintained by the USPTO regarding invention promotion services. It is anticipated that the Director will use appropriate discretion in making such complaints available to the public for a reasonably sufficient, yet limited, length of time, such as a period of three years from the date of receipt, and that the Director will consult with the Federal Trade Commission to determine whether the disclosure requirements of the FTC and section 297(a) can be coordinated.

Sec. 4103. Effective date

This section provides that the effective date of section 297 will be 60 days after the date of enactment of this Act.

SUBTITLE B—PATENT AND TRADEMARK FEE FAIRNESS

Subtitle B provides patent and trademark fee reform, by lowering patent fees, by directing the Director of the USPTO to study alternative fee structures to encourage full participation in our patent system by all inventors, large and small, and by strengthening the prohibition against the use of trademark fees for non-trademark uses.

Sec. 4201. Short title

This subtitle may be cited as the ''Patent and Trademark Fee Fairness Act of 1999.''

Sec. 4202. Adjustment of patent fees.

This section reduces patent filing an reissue fees by $50, and reduces patent maintenance fees by $110. This would mark only the second time in history that patent fees have been reduced. Because trademark fees have not been increased since 1993 and because of the application of accounting based cost principles and systems, patent fee income has been partially offsetting the cost of trademark operations. This section will restore fairness to patent and trademark fees by reducing patent fees to better reflect the cost of services.

Sec. 4203. Adjustment of trademark fees.

This section will allow the Director of the USPTO to adjust trademark fees in fiscal year 2000 without regard to fluctuations in the Consumer Price Index in order to better align those fees with the costs of services.

Sec. 4204. Study on alternative fee structures

This section directs the Director of the USPTO to conduct a study and report to the Judiciary Committees of the House and Senate within one year on alternative fee structures that could be adopted by the USPTO to encourage maximum participation in the patent system by the American inventor community.

Sec. 4205. Patent and Trademark Office funding

Pursuant to section 42(c) of the Patent Act, fees available to the Commissioner under section 31 of the Trademark Act of 1946[6] may be used only for the processing of trademark registrations and for other trademark-related activities, and to cover a proportionate share of the administrative costs of the USPTO. In an effort to more tightly ''fence'' trademark funds for trademark purposes, section 4205 amends this language such that all (trademark) fees available to the Commissioner shall be used for trademark registration and other trademark-related purposes. In other words, the Commissioner may exercise no discretion when spending funds; they must be earmarked for trademark purposes.

SUBTITLE C—FIRST INVENTOR DEFENSE

Subtitle C strikes an equitable balance between the interests of U.S. inventors who have invented and commercialized business methods and processes, many of which until recently were thought not to be patentable, and U.S. or foreign inventors who later patent the methods and processes. The subtitle creates a defense for inventors who have reduced an invention to practice in the U.S. at

least one year before the patent filing date of another, typically later, inventor and commercially used the invention in the U.S. before the filing date. A party entitled to the defense must not have derived the invention from the patent owner. The bill protects the patent owner by providing that the establishment of the defense by such an inventor or entrepreneur does not invalidate the patent.

The subtitle clarifies the interface between two key branches of intellectual property law—patents and trade secrets. Patent law serves the public interest by encouraging innovation and investment in new technology, and may be thought of as providing a right to exclude other parties from an invention in return for the inventor making a public disclosure of the invention. Trade secret law, however, also serves the public interest by protecting investments in new technology. Trade secrets have taken on a new importance with an increase in the ability to patent all business methods and processes. It would be administratively and economically impossible to expect any inventor to apply for a patent on all methods and processes now deemed patentable. In order to protect inventors and to encourage proper disclosure, this subtitle focuses on methods for doing and conducting business, including methods used in connection with internal commercial operations as well as those used in connection with the sale or transfer of useful end results—whether in the form of physical products, or in the form of services, or in the form of some other useful results; for example, results produced through the manipulation of data or other inputs to produce a useful result.

The earlier-inventor defense is important to many small and large businesses, including financial services, software companies, and manufacturing firms—any business that relies on innovative business processes and methods. The 1998 opinion by the U.S. Court of Appeals for the Federal Circuit in State Street Bank and Trust Co. v. Signature Financial Group,[7] which held that methods of doing business are patentable, has added to the urgency of the issue. As the Court noted, the reference to the business method exception had been improperly applied to a wide variety of processes, blurring the essential question of whether the invention produced a ''useful, concrete, and tangible result.'' In the wake of State Street, thousands of methods and processes used internally are now being patented. In the past, many businesses that developed and used such methods and processes thought secrecy was the only protection available. Under established law, any of these inventions which have been in commercial use—public or secret—for more than one year cannot now be the subject of a valid U.S. patent.

Sec. 4301. Short title

This subtitle may be cited as the ''First Inventor Defense Act of 1999.''

Sec. 4302. Defense to patent infringement based on earlier inventor

In establishing the defense, subsection (a) of section 4302 creates a new section 273 of the Patent Act, which in subsection (a) sets forth the following definitions:

(1) ''Commercially used and commercial use'' mean use of any method in the United States so long as the use is in connection with an internal commercial use or an actual sale or transfer of a useful end result;

(2) ''Commercial use as applied to a nonprofit research laboratory and nonprofit entities such as a university, research center, or hospital intended to benefit the public'' means that such entities may assert the defense only based on continued use by and in the entities themselves, but that the defense is inapplicable to subsequent commercialization or use outside the entities;

(3) ''Method'' means any method for doing or conducting an entity's business; and (4) ''Effective filing date'' means the earlier of the actual filing date of the application for the patent or the filing date of any earlier US, foreign, or international application to which the subject matter at issue is entitled under the Patent Act.

To be ''commercially used'' or in ''commercial use'' for purposes of subsection (a), the use must be in connection with either an internal commercial use or an actual arm's-length sale or other arm's-length commercial transfer of a useful end result. The method that is the subject matter of the defense may be an internal method for doing business, such as an internal human resources management process, or a method for conducting business such as a preliminary or intermediate manufacturing procedure, which contributes to the effectiveness of the business by producing a useful end result for the internal operation of the business or for external sale. Commercial use does not require the subject matter at issue to be accessible to or otherwise known to the public.

Subject matter that must undergo a premarketing regulatory review period during which safety or efficacy is established before commercial marketing or use is considered to be commercially used and in commercial use during the regulatory review period.

The issue of whether an invention is a method is to be determined based on its underlying nature and not on the technicality of the form of the claims in the patent. For example, a method for doing or conducting business that has been claimed in a patent as a programmed machine, as in the State Street case, is a method for purposes of section 273 if the invention could have as easily been claimed as a method. Form should not rule substance.

Subsection (b)(1) of section 273 establishes a general defense against infringement under section 271 of the Patent Act. Specifically, a person will not be held liable with respect to any subject matter that would otherwise infringe one or more claims to a method in another party's patent if the person:

(1) Acting in good faith, actually reduced the subject matter to practice at least one year before the effective filing date of the patent; and

(2) Commercially used the subject matter before the effective filing date of the patent.

The first inventor defense is not limited to methods in any particular industry such as the financial services industry, but applies to any industry which relies on trade secrecy for protecting methods for doing or conducting the operations of their business.

Subsection (b)(2) states that the sale or other lawful disposition of a useful end result produced by a patented method, by a person entitled to assert a section 273 defense, exhausts the patent owner's rights with respect to that end result to the same extent such rights would have been exhausted had the sale or other disposition been made by the patent owner. For example, if a purchaser would have had the right to resell a product or other end result if bought from the patent owner, the purchaser will have the same right if the product is purchased from a person entitled to a section 273 defense.

Subsection (b)(3) creates limitations and qualifications on the use of the defense. First, a person may not assert the defense unless the invention for which the defense is asserted is for a commercial use of a method as defined in section 273(a)(1) and (3). Second, a person may not assert the defense if the subject matter was derived from the patent owner or persons in privity with the patent owner. Third, subsection (b)(3) makes clear that the application of the defense does not create a general license under all claims of the patent in question—it extends only to the specific subject matter claimed in the patent with respect to which the person can assert the defense. At the same time, however, the defense does extend to variations in the quantity or volume of use of the claimed subject matter, and to improvements that do not infringe additional, specifically-claimed subject matter.

Subsection (b)(4) requires that the person asserting the defense has the burden of proof in establishing it by clear and convincing evidence. Subsection (b)(5) establishes that the person who abandons the commercial use of subject matter may not rely on activities performed before the date of such abandonment in establishing the defense with respect to actions taken after the date of abandonment. Such a person can rely only on the date when commercial use of the subject matter was resumed.

Subsection (b)(6) notes that the defense may only be asserted by the person who performed the acts necessary to establish the defense, and, except for transfer to the patent owner, the right to assert the defense cannot be licensed, assigned, or transferred to a third party except as an ancillary and subordinate part of a good-faith assignment or transfer for other reasons of the entire enterprise or line of business to which the defense relates.

When the defense has been transferred along with the enterprise or line of business to which it relates as permitted by subsection (b)(6), subsection (b)(7) limits the sites for which the defense may be asserted. Specifically, when the enterprise or line of business to which the defense relates has been transferred, the defense may be asserted only for uses at those sites where the subject matter was used before the later of the patent filing date or the date of transfer of the enterprise or line of business.

Subsection (b)(8) states that a person who fails to demonstrate a reasonable basis for asserting the defense may be held liable for attorneys' fees under section 285 of the Patent Act.

Subsection (b)(9) specifies that the successful assertion of the defense does not mean that the affected patent is invalid. Paragraph (9) eliminates a point of uncertainty under current law, and strikes a balance between the rights of an inventor who obtains a patent after another inventor has taken the steps to qualify for a prior use defense. The bill provides that the commercial use of a method in operating a business before the patentee's filing date, by an individual or entity that can establish a section 273 defense, does not invalidate the patent. For example, under current law, although the matter has seldom been litigated, a party who commercially used an invention in secrecy before the patent filing date and who also invented the subject matter before the patent owner's invention may argue that the patent is invalid under section 102 (g) of the Patent Act. Arguably, commercial use of an invention in secrecy is not suppression or concealment of the invention within the meaning of section 102(g), and therefore the party's earlier invention could invalidate the patent.[8]

Sec. 4303. Effective date and applicability

The effective date for subtitle C is the date of enactment, except that the title does not apply to any infringement action pending on the date of enactment or to any subject matter for which an adjudication of infringement, including a consent judgment, has been made before the date of enactment.

SUBTITLE D—PATENT TERM GUARANTEE

Subtitle D amends the provisions in the Patent Act that compensate patent applicants for certain reductions in patent term that are not the fault of the applicant. The provisions that were initially included in the term adjustment provisions of patent bills in the 105th Congress only provided adjustments for up to 10 years for secrecy orders, interferences, and successful appeals. Not only are these adjustments too short in some cases, but no adjustments were provided for administrative delays caused by the USPTO that were beyond the control of the applicant. Accordingly, subtitle D removes the 10–year caps from the existing provisions, adds a new provision to compensate applicants fully for USPTO-caused administrative delays, and, for good measure, includes a new provision guaranteeing diligent applicants at least a 17–year term by extending the term of any patent not granted within three years of filing. Thus, no patent applicant diligently seeking to obtain a patent will receive a term of less than the 17 years as provided under the pre-GATT[9] standard; in fact, most will receive considerably more. Only those who purposely manipulate the system to delay the issuance of their patents will be penalized under subtitle D, a result that the Conferees believe entirely appropriate.

Sec. 4401. Short title

This subtitle may be cited as the ''Patent Term Guarantee Act of 1999.''

Sec.4402. Patent term guarantee authority

Section 4402 amends section 154(b) of the Patent Act covering term. First, new subsection (b)(1)(A)(i)-(iv) guarantees day-for-day restoration of term lost as a result of delay created by the USPTO when the agency fails to:

(1) Make a notification of the rejection of any claim for a patent or any objection or argument under §132, or give or mail a written notice of allowance under §151, within 14 months after the date on which a non-provisional application was actually filed in the USPTO;

(2) Respond to a reply under §132, or to an appeal taken under §134, within four months after the date on which the reply was filed or the appeal was taken;

(3) Act on an application within four months after the date of a decision by the Board of Patent Appeals and Interferences under §134 or §135 or a decision by a Federal court under §§141, 145, or 146 in a case in which allowable claims remain in the application; or (4) Issue a patent within four months after the date on which the issue fee was paid under §151 and all outstanding requirements were satisfied.

Further, subject to certain limitations, infra, section 154(b)(1)(B) guarantees a total application pendency of no more than three years. Specifically, day-for-day restoration of term is granted if the USPTO has not issued a patent within three years after ''the actual date of the application in the United States.'' This language was intentionally selected to exclude the filing date of an application under the Patent Cooperation Treaty (PCT).[10] Otherwise, an applicant could obtain up to a 30–month extension of a U.S. patent merely by filing under PCT, rather than directly in the USPTO, gaining an unfair advantage in contrast to strictly domestic applicants. Any periods of time

(1) consumed in the continued examination of the application under §132(b) of the Patent Act as added by section 4403 of this Act;

(2) lost due to an interference under section135(a), a secrecy order under section 181, or appellate review by the Board of Patent Appeals and Interferences or by a Federal court (irrespective of the outcome); and

(3) incurred at the request of an applicant in excess of the three months to respond to a notice from the Office permitted by section 154(b)(2)(C)(ii) unless excused by a showing by the applicant under section 154(b)(3)(C) that in spite of all due care the applicant could not respond within three months

shall not be considered a delay by the USPTO and shall not be counted for purposes of determining whether the patent issued within three years from the actual filing date.

Day-for-day restoration is also granted under new section 154(b)(1)(C) for delays resulting from interferences,[11] secrecy orders,[12] and appeals by the Board of Patent Appeals and Interferences or a Federal court in which a patent was issued as a result of a decision reversing an adverse determination of patentability.

Section 4402 imposes limitations on restoration of term. In general, pursuant to new §154(b)(2)(A)-(C) of the bill, total adjustments granted for restorations under (b)(1) are reduced as follows:

(1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under section 181 and administrative delay under section 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed;

(2) The term of any patent which has been disclaimed beyond a date certain may not receive an adjustment beyond the expiration date specified in the disclaimer; and

(3) Adjustments shall be reduced by a period equal to the time in which the applicant failed to engage in reasonable efforts to conclude prosecution of the application, based on regulations developed by the Director, and an applicant shall be deemed to have failed to engage in such reasonable efforts for any periods of time in excess of three months that are taken to respond to a notice from the Office making any rejection or other request;

New section 154(b)(3) sets forth the procedures for the adjustment of patent terms. Paragraph (3)(A) empowers the Director to establish regulations by which term extensions are determined and contested. Paragraph (3)(B) requires the Director to send a notice of any determination with the notice of allowance and to give the applicant one opportunity to request reconsideration of the determination. Paragraph (3)(C) requires the Director to reinstate any time the applicant takes to respond to a notice from the Office in excess of three months that was deducted from any patent term extension that would otherwise have been granted if the applicant can show that he or she was, in spite of all due care, unable to respond within three months. In no case shall more than an additional three months be reinstated for each response. Paragraph (3)(D) requires the Director to grant the patent after completion of determining any patent term extension irrespective of whether the applicant appeals.

New section 154(b)(4) regulates appeals of term adjustment determinations made by the Director. Paragraph (4)(A) requires a dissatisfied applicant to seek remedy in the District Court for the District of Columbia under the Administrative Procedures Act[13] within 180 days after the grant of the patent. The Director shall alter the term of the patent to reflect any final judgment. Paragraph (4)(B) precludes a third party from challenging the determination of a patent term prior to patent grant.

Section 4402(b) makes certain conforming amendments to section 282 of the Patent Act and the appellate jurisdiction of the U.S. Court of Appeals for the Federal Circuit.[14]

Sec. 4403. Continued examination of patent applications

Section 4403 amends section 132 of the Patent Act to permit an applicant to request that an examiner continue the examination of an application following a notice of ''final'' rejection by the examiner. New section 132(b) authorizes the Director to prescribe regulations for the continued examination of an application notwithstanding a final rejection, at the request of the applicant. The Director may also establish appropriate fees for continued examination proceedings, and shall provide a 50% fee reduction for small entities which qualify for such treatment under section 41(h)(1) of the Patent Act.

Section 4404. Technical clarification

Section 4404 of the bill coordinates technical term adjustment provisions set forth in section 154(b) with those in section 156(a) of the Patent Act.

Section 4405. Effective date

The effective date for the amendments in section 4402 and 4404 is six months after the date of enactment and, with the exception of design applications (the terms of which are not measured from filing), applies to any application filed on or after such date. The amendments made by section 4403 take effect six months after date of enactment to allow the USPTO to prepare implementing regulations an apply to all national and international (PCT) applications filed on or after June 8, 1995.

SUBTITLE E—DOMESTIC PUBLICATION OF PATENT APPLICATIONS PUBLISHED ABROAD

Subtitle E provides for the publication of pending patent applications which have a corresponding foreign counterpart. Any pending U.S. application filed only in the United States (e.g., one that does not have a foreign counterpart) will not be published if the applicant so requests. Thus, an applicant wishing to maintain her application in confidence may do so merely by filing only in the United States and requesting that the USPTO not publish the application. For those applicants who do file abroad or who voluntarily publish their applications, provisional rights will be available for assertion against any third party who uses the claimed invention between publication and grant provided that substantially similar claims are contained in both the published application and granted patent. This change will ensure that American inventors will be able to see the technology that our foreign competition is seeking to patent much earlier than is possible today.

Sec. 4501. Short title

This subtitle may be cited as the ''Domestic Publication of Foreign Filed Patent Applications Act of 1999.''

Sec. 4502. Publication

As provided in subsection (a) of section 4502, amended section 122(a) of the Patent Act continues the general rule that patent applications will be maintained in confidence. Paragraph (1)(A) of new subsection (b) of section 122 creates a new exception to this general rule by requiring publication of certain applications promptly after the expiration of an 18–month period following the earliest claimed U.S. or foreign filing date. The Director is authorized by subparagraph (B) to determine what information concerning published applications shall be made available to the public, and, under subparagraph (C) any decision made in this regard is final and not subject to review.

Subsection (b)(2) enumerates exceptions to the general rule requiring publication. Subparagraph (A) precludes publication of any

application that is: (1) no longer pending at the 18th month from filing; (2) the subject of a secrecy order until the secrecy order is rescinded; (3) a provisional application;[15] or (4) a design patent application.[16]

Pursuant to subparagraph (B)(i), any applicant who is not filing overseas and does not wish her application to be published can simply make a request and state that her invention has not and will not be the subject of an application filed in a foreign country that requires publication after 18 months. Subparagraph (B)(ii) clarifies that an applicant may rescind this request at any time. Moreover, if an applicant has requested that her application not be published in a foreign country with a publication requirement, subparagraph (B)(iii) imposes a duty on the applicant to notify the Director of this fact. An unexcused failure to notify the Director will result in the abandonment of the application. If an applicant either rescinds a request that her application not be published or notifies the Director that an application has been filed in an early publication country or through the PCT, the U.S. application will be published at 18 months pursuant to subsection (b)(1).

Finally, under subparagraph (B)(v), where an applicant has filed an application in a foreign country, either directly or through the PCT, so that the application will be published 18 months from its earliest effective filing date, the applicant may limit the scope of the publication by the USPTO to the total of the cumulative scope of the applications filed in all foreign countries. Where the foreign application is identical to the application filed in the United States or where an application filed under the PCT is identical to the application filed in the United States, the applicant may not limit the extent to which the application filed in the United States is published. However, where an applicant has limited the description of an application filed in a foreign country, either directly or through the PCT in comparison with the application filed in the USPTO, the applicant may restrict the publication by the USPTO to no more than the cumulative details of what will be published in all of the foreign applications and through the PCT. The applicant may restrict the extent of publication of her U.S. application by submitting a redacted copy of the application to the USPTO eliminating only those details that will not be published in any of the foreign applications. Any description contained in at least one of the foreign national or PCT filings may not be excluded from publication in the corresponding U.S. patent application. To ensure that any redacted copy of the U.S. application is published in place of the original U.S. application, the redacted copy must be received within 16 months from the earliest effective filing date. Finally, if the published U.S. application as redacted by the applicant does not enable a person skilled in the art to make and use the claimed invention, provisional rights under section 154(d) shall not be available.

Subsection (c) requires the Director to establish procedures to ensure that no protest or other form of pre-issuance opposition to the grant of a patent on an application may be initiated after publication without the express written consent of the applicant.

Subsection (d) protects our national security by providing that no application may be published under subsection (b)(1) where the publication or disclosure of such invention would be detrimental to the national security. In addition, the Director of the USPTO is required to establish appropriate procedures to ensure that such applications are promptly identified and the secrecy of such inventions is maintained in accordance with chapter 17 of the Patent Act, which governs secrecy of inventions in the interest of national security.

Subsection (b) of section 4502 of subtitle E requires the Government Accounting Office (GAO) to conduct a study of applicants who file only in the United States during a three-year period beginning on the effective date of subtitle E. The study will focus on the percentage of U.S. applicants who file only in the United States versus those who file outside the United States; how many domestic-only filers request not to be published; how many who request not to be published later rescind that request; and whether there is any correlation between the type of applicant (e.g., small vs. large entity) and publication. The Comptroller General must submit the findings of the study, once completed, to the Committees on the Judiciary of the House and Senate.

Sec. 4503. Time for claiming benefit of earlier filing date

Section 119 of the Patent Act prescribes procedures to implement the right to claim priority under Article 4 of the Paris Convention for the Protection of Industrial Property.[17] Under that Article, an applicant seeking protection in the United States may claim the filing date of an application for the same invention filed in another Convention country—provided the subsequent application is filed in the United States within 12 months of the earlier filing in the foreign country.

Section 4503 of subtitle V amends section 119(b) of the Patent Act to authorize the Director to establish a cut-off date by which the applicant must claim priority. This is to ensure that the claim will be made early enough—generally not later than the 16th month from the earliest effective filing date—so as to permit an orderly publication schedule for pending applications. As the USPTO moves to electronic filing, it is envisioned that this date could be moved closer to the 18th month.

The amendment to §119(b) also gives the Director the discretion to consider the failure of the applicant to file a timely claim for priority to be a waiver of any such priority claim. The Director is also authorized to establish procedures (including the payment of a surcharge) to accept an unintentionally delayed priority claim.

Section 4503(b) of subtitle E amends section 120 of the Patent Act in a similar way. This provision empowers the Director to: (1) establish a time by which the priority of an earlier filed United States application must be claimed; (2) consider the failure to meet that time limit to be a waiver of the right to claim such priority; and (3) accept an unintentionally late claim of priority subject to the payment of a surcharge.

Sec. 4504. Provisional rights

Section 4504 amends section 154 of the Patent Act by adding a new subsection (d) to accord provisional rights to obtain a reasonable royalty for applicants whose applications are published under amended section 122(b) of the Patent Act, supra, or applications designating the United States filed under the PCT. Generally, this provision establishes the right of an applicant to obtain a reasonable royalty from any person who, during the period beginning on the date that his or her application is published and ending on the date a patent is issued—

(1) makes, uses, offers for sale, or sells the invention in the United States, or imports such an invention into the United States; or

(2) if the invention claimed is a process, makes, uses, offers for sale, sells, or imports a product made by that process in the United States; and

(3) had actual notice of the published application and, in the case of an application filed under the PCT designating the United States that is published in a language other than English, a translation of the application into English.

The requirement of actual notice is critical. The mere fact that the published application is included in a commercial database where it might be found is insufficient. The published applicant must give actual notice of the published application to the accused infringer and explain what acts are regarded as giving rise to provisional rights.

Another important limitation on the availability of provisional royalties is that the claims in the published application that are alleged to give rise to provisional rights must also appear in the patent in substantially identical form. To allow anything less than substantial identity would impose an unacceptable burden on the public. If provisional rights were available in the situation where the only valid claim infringed first appeared in substantially that form in the granted patent, the public would have no guidance as to the specific behavior to avoid between publication and grant. Every person or company that might be operating within the scope of the disclosure of the published application would have to conduct her own private examination to determine whether a published application contained patentable subject matter that she should avoid. The burden should be on the applicant to initially draft a schedule of claims that gives adequate notice to the public of what she is seeking to patent.

Amended section 154(d)(3) imposes a six-year statute of limitations from grant in which an action for reasonable royalties must be brought.

Amended section 154(d)(4) sets forth some additional rules qualifying when an international application under the PCT will give rise to provisional rights. The date that will give rise to provisional rights for international applications will be the date on which the USPTO receives a copy of the application published under the PCT in the English language; if the application is published under the PCT in a language other than English, then the date on which provisional rights will arise will be the date on which the USPTO receives a translation of the international application in the English language. The Director is empowered to require an applicant to provide a copy of the international application and a translation of it.

Sec. 4505. Prior art effect of published applications

Section 4505 amends section 102(e) of the Patent Act to treat an application published by the USPTO in the same fashion as a patent published by the USPTO. Accordingly, a published application is given prior art effect as of its earliest effective U.S. filing date against any subsequently filed U.S. applications. As with patents, any foreign filing date to which the published application is entitled will not be the effective filing date of the U.S. published application for prior art purposes. An exception to this general rule is made for international applications designating the United States that are published under Article 21(2)(a) of the PCT in the English language. Such applications are given a prior art effect as of their international filing date. The prior art effect accorded to patents under section 4505 remains unchanged from present section 102(e) of the Patent Act.

Sec. 4506. Cost recovery for publications

Section 4506 authorizes the Director to recover the costs of early publication required by the amendment made by section 4502 of this Act by charging a separate publication fee after a notice of allowance is given pursuant to section 151 of the Patent Act.

Sec. 4507. Conforming amendments

Section 4507 consists of various technical and conforming amendments to the Patent Act. These include amending section 181 of the Patent Act to clarify that publication of pending applications does not apply to applications under secrecy orders, and amending section 284 of the Patent Act to ensure that increased damages authorized under section 284 shall not apply to the reasonable royalties possible under amended section 154(d). In addition, section 374 of the Patent Act is amended to provide that the effect of the publication of an international application designating the United States shall be the same as the publication of an application published under amended section 122(b), except as its effect as prior art is modified by amended section 102(e) and its giving rise to provisional rights is qualified by new section 154(d).

Sec. 4508. Effective date

Subtitle E shall take effect on the date that is one year after the date of enactment and shall apply to all applications filed under section 111 of the Patent Act on or after that date; and to all applications complying with section 371 of the Patent Act that resulted from international applications filed on or after that date. The provisional rights provided in amended section 154(d) and the prior art effect provided in amended section 102(e) shall apply to all applications pending on the date that is one year after the date of enactment that are voluntarily published by their applicants. Finally, section 404 (provisional rights) shall apply to international applications designating the United States that are filed on or after the date that is one year after the date of enactment.

SUBTITLE F—OPTIONAL INTER PARTES REEXAMINATION PROCEDURE

Subtitle F is intended to reduce expensive patent litigation in U.S. district courts by giving third-party requesters, in addition to the existing ex parte reexamination in Chapter 30 of title 35, the option of inter partes reexamination proceedings in the USPTO. Congress enacted legislation to authorize ex parte reexamination of patents in the USPTO in 1980, but such reexamination has been used infrequently since a third party who requests reexamination cannot participate at all after initiating the proceedings. Numerous witnesses have suggested that the volume of lawsuits in district courts will be reduced if third parties can be encouraged to use reexamination by giving them an opportunity to argue their case for patent invalidity in the USPTO. Subtitle F provides that opportunity as an option to the existing ex parte reexamination proceedings.

Subtitle F leaves existing ex parte reexamination procedures in Chapter 30 of title 35 intact, but establishes an inter partes reexamination procedure which third-party requesters can use at their option. Subtitle VI allows third parties who request inter partes reexamination to submit one written comment each time the patent owner files a response to the USPTO. In addition, such third-party requesters can appeal to the USPTO Board of Patent Appeals and Interferences from an examiner's determination that the reexamined patent is valid, but may not appeal to the Court of Appeals for the Federal Circuit. To prevent harassment, anyone who requests inter partes reexamination must identify the real party in interest and third-party requesters who participate in an inter partes reexamination proceeding are estopped from raising in a subsequent court action or inter partes reexamination any issue of patent validity that they raised or could have raised during such inter partes reexamination.

Subtitle F contains the important threshold safeguard (also applied in ex parte reexamination) that an inter partes reexamination cannot be commenced unless the USPTO makes a determination that a ''substantial new question'' of patentability is raised. Also, as under Chapter 30, this determination cannot be appealed, and grounds for inter partes reexamination are limited to earlier patents and printed publications—grounds that USPTO examiners are well-suited to consider.

Sec. 4601. Short title

This subtitle may be cited as the ''Optional Inter Partes Reexamination Procedure Act.''

Sec. 4602. Clarification of Chapter 30

This section distinguishes Chapter 31 from existing Chapter 30 by changing the title of Chapter 30 to ''Ex Parte Reexamination of Patents.''

Sec. 4603. Definitions

This section amends section 100 of the Patent Act by defining ''third-party requester'' as a person who is not the patent owner requesting ex parte reexamination under section 302 or inter partes reexamination under section 311.

Sec. 4604. Optional Inter Partes Reexamination Procedure

Section 4604 amends Part III of title 35 by inserting a new Chapter 31 setting forth optional inter partes reexamination procedures.

New section 311, as amended by this section, differs from section 302 of existing law in Chapter 30 of the Patent Act by requiring any person filing a written request for inter partes reexamination to identify the real party in interest.

Similar to section 303 of existing law, new section 312 of the Patent Act confers upon the Director the authority and responsibility to determine, within three months after the filing of a request for inter partes reexamination, whether a substantial new question affecting patentability of any claim of the patent is raised by the request. Also, the decision in this regard is final and not subject to judicial review.

Proposed sections 313–14 under this subtitle are similarly modeled after sections 304–305 of Chapter 30. Under proposed section 313, if the Director determines that a substantial new question of patentability affecting a claim is raised, the determination shall include an order for inter partes reexamination for resolution of the question. The order may be accompanied by the initial USPTO action on the merits of the inter partes reexamination conducted in accordance with section 314. Generally, under proposed section 314, inter partes reexamination shall be conducted according to the procedures set forth in sections 132–133 of the Patent Act. The patent owner will be permitted to propose any amendment to the patent and a new claim or claims, with the same exception contained in section 305: no proposed amended or new claim enlarging the scope of the claims will be allowed.

Proposed section 314 elaborates on procedure with regard to third-party requesters who, for the first time, are given the option to participate in inter partes reexamination proceedings. With the exception of the inter partes reexamination request, any document filed by either the patent owner or the third-party requester shall be served on the other party. In addition, the third party-requester in an inter partes reexamination shall receive a copy of any communication sent by the USPTO to the patent owner. After each response by the patent owner to an action on the merits by the USPTO, the third-party requester shall have one opportunity to file written comments addressing issues raised by the USPTO or raised in the patent owner's response. Unless ordered by the Director for good cause, the agency must act in an inter partes reexamination matter with special dispatch.

Proposed section 315 prescribes the procedures for appeal of an adverse USPTO decision by the patent owner and the third-party requester in an inter partes reexamination. Both the patent owner and the third-party requester are entitled to appeal to the Board of Patent Appeals and Interferences (section 134 of the Patent Act), but only the patentee can appeal to the U.S. Court of Appeals for the Federal Circuit (§§141–144); either may also be a party to any appeal by the other to the Board of Patent Appeals and Interferences. The patentee is not entitled to the alternative of an appeal of an inter partes reexamination to the U.S. District Court for the District of Columbia. Such appeals are rarely taken from ex parte reexamination proceedings under existing law and its removal should speed up the process.

To deter unnecessary litigation, proposed section 315 imposes constraints on the third-party requester. In general, a third-party requester who is granted an inter partes reexamination by the USPTO may not assert at a later time in any civil action in U.S. district court[18] the invalidity of any claim finally determined to be patentable on any ground that the third-party requester raised or could have raised during the inter partes reexamination. However, the third-party requester may assert invalidity based on newly discovered prior art unavailable at the time of the reexamination. Prior art was unavailable at the time of the inter partes reexamination if it was not known to the individuals who were involved in the reexamination proceeding on behalf of the third-party requester and the USPTO.

Section 316 provides for the Director to issue and publish certificates canceling unpatentable claims, confirming patentable claims, and incorporating any amended or new claim determined to be patentable in an inter partes procedure.

Subtitle F creates a new section 317 which sets forth certain conditions by which inter partes reexamination is prohibited to guard against harassment of a patent holder. In general, once an order for inter partes reexamination has been issued, neither a third-party requester nor the patent owner may file a subsequent request for inter partes reexamination until an inter partes reexamination certificate is issued and published, unless authorized by the Director. Further, if a third-party requester asserts patent invalidity in a civil action and a final decision is entered that the party failed to prove the assertion of invalidity, or if a final decision in an inter partes reexamination instituted by the requester is favorable to patentability, after any appeals, that third-party requester cannot thereafter request inter partes reexamination on the basis of issues which were or which could have been raised. However, the third-party requester may assert invalidity based on newly discovered prior art unavailable at the time of the civil action or inter partes reexamination. Prior art was unavailable at the time if it was not known to the individuals who were involved in the civil action or inter partes reexamination proceeding on behalf of the third-party requester and the USPTO.

Proposed section 318 gives a patent owner the right, once an inter partes reexamination has been ordered, to obtain a stay of any pending litigation involving an issue of patentability of any claims of the patent that are the subject of the inter partes reexamination, unless the court determines that the stay would not serve the interests of justice.

Sec. 4605. Conforming amendments

Section 4605 makes the following conforming amendments to the Patent Act:

A patent owner must pay a fee of $1,210 for each petition in connection with an unintentionally abandoned application, delayed payment, or delayed response by the patent owner during any reexamination.

A patent applicant, any of whose claims has been twice rejected; a patent owner in a reexamination proceeding; and a third-party requester in an inter partes reexamination proceeding may all appeal final adverse decisions from a primary examiner to the Board of Patent Appeals and Interferences.

Proposed section 141 states that a patent owner in a reexamination proceeding may appeal an adverse decision by the Board of Patent Appeals and Interferences only to the U.S. Court of Appeals for the Federal Circuit as earlier noted. A third-party requester in an inter partes reexamination proceeding may not appeal beyond the Board of Patent Appeals and Interferences.

The Director is required pursuant to section 143 (proceedings on appeal to the Federal Circuit) to submit to the court the grounds for the USPTO decision in any reexamination addressing all the issues involved in the appeal.

Sec. 4606. Report to Congress

Not later than five years after the effective date of subtitle F, the Director must submit to Congress a report evaluating whether the inter partes reexamination proceedings set forth in the title are inequitable to any of the parties in interest and, if so, the report shall contain recommendations for change to eliminate the inequity.

Sec. 4607. Estoppel Effect of Reexamination

Section 4607 estops any party who requests inter partes reexamination from challenging at a later time, in any civil action, any fact determined during the process of the inter partes reexamination, except with respect to a fact determination later proved to be erroneous based on information unavailable at the time of the inter partes reexamination. The estoppel arises after a final decision in the inter partes reexamination or a final decision in any appeal of such reexamination. If section 4607 is held to be unenforceable, the enforceability of the rest of subtitle F or the Act is not affected.

Sec. 4608. Effective date

Subtitle F shall take effect on the date of the enactment and shall apply to any patent that issues from an original application filed in the United States on or after that date, except that the amendments made by section 4605(a) shall take effect one year from the date of enactment.

SUBTITLE G—UNITED STATES PATENT AND TRADEMARK OFFICE

Subtitle G establishes the United States Patent and Trademark Office (USPTO) as an agency of the United States within the Department of Commerce. The Secretary of Commerce gives policy direction to the agency, but the agency is autonomous and responsible for the management and administration of its operations and has independent control of budget allocations and expenditures, personnel decisions and processes, and procurement. The Committee intends that the Office will conduct its patent and trademark operations without micro-management by Department of Commerce officials, with the exception of policy guidance of the Secretary. The agency is headed by an Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, a Deputy, and a Commissioner of Patents and a Commissioner of Trademarks. The agency is exempt from government-wide personnel ceilings. A patent public advisory committee and a trademark public advisory committee are established to advise the Director on agency policies, goals, performance, budget and user fees.

Sec. 4701. Short title

This subtitle may be cited as the ''Patent and Trademark Office Efficiency Act.''

Subchapter A—United States Patent and Trademark Office

Sec. 4711. Establishment of Patent and Trademark Office

Section 4711 establishes the USPTO as an agency of the United States within the Department of Commerce and under the policy direction of the Secretary of Commerce. The USPTO, as an autonomous agency, is explicitly responsible for decisions regarding the management and administration of its operations and has independent control of budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. Patent operations and trademark operations are to be treated as separate operating units within the Office, each under the direction of its respective Commissioner, as supervised by the Director.

The USPTO shall maintain its principal office in the metropolitan Washington, D.C., area, for the service of process and papers and for the purpose of discharging its functions. For purposes of venue in civil actions, the agency is deemed to be a resident of the district in which its principal office is located, except where otherwise provided by law. The USPTO is also permitted to establish satellite offices in such other places in the United States as it considers necessary and appropriate to conduct business. This is intended to allow the USPTO, if appropriate, to serve American applicants better.

Sec. 4712. Powers and duties

Subject to the policy direction of the Secretary of the Commerce, in general the USPTO will be responsible for the granting and issuing of patents, the registration of trademarks, and the dissemination of patent and trademark information to the public.

The USPTO will also possess specific powers, which include:

(1) a requirement to adopt and use an Office seal for judicial notice purposes and for authenticating patents, trademark certificates and papers issued by the Office;

(2) the authority to establish regulations, not inconsistent with law, that

(A) govern the conduct of USPTO proceedings within the Office,

(B) are in accordance with § 553 of title 5,

(C) facilitate and expedite the processing of patent applications, particularly those which can be processed electronically,

(D) govern the recognition, conduct, and qualifications of agents, attorneys, or other persons representing applicants or others before the USPTO,

(E) recognize the public interest in ensuring that the patent system retain a reduced fee structure for small entities, and

(F) provide for the development of a performance-based process for managing that includes quantitative and qualitative measures, standards for evaluating cost-effectiveness, and consistency with principles of impartiality and competitiveness;

(3) the authority to acquire, construct, purchase, lease, hold, manage, operate, improve, alter and renovate any real, personal, or mixed property as it considers necessary to discharge its functions;

(4) the authority to make purchases of property, contracts for construction, maintenance, or management and operation of facilities, as well as to contract for and purchase printing services without regard to those federal laws which govern such proceedings;

(5) the authority to use services, equipment, personnel, facilities and equipment of other federal entities, with their consent and on a reimbursable basis;

(6) the authority to use, with the consent of the United States and the agency, government, or international organization concerned, the services, records, facilities or personnel of any State or local government agency or foreign patent or trademark office or international organization to perform functions on its behalf;

(7) the authority to retain and use all of its revenues and receipts;

(8) a requirement to advise the President, through the Secretary of Commerce, on national and certain international intellectual property policy issues;

(9) a requirement to advise Federal departments and agencies of intellectual property policy in the United States and intellectual property protection abroad;

(10) a requirement to provide guidance regarding proposals offered by agencies to assist foreign governments and international intergovernmental organizations on matters of intellectual property protection;

(11) the authority to conduct programs, studies or exchanges regarding domestic or international intellectual property law and the effectiveness of intellectual property protection domestically and abroad;

(12) a requirement to advise the Secretary of Commerce on any programs and studies relating to intellectual property policy that the USPTO may conduct or is authorized to conduct, cooperatively with foreign intellectual property offices and international intergovernmental organizations; and

(13) the authority to (A) coordinate with the Department of State in conducting programs and studies cooperatively with foreign intellectual property offices and international intergovernmental organizations, and (B) transfer, with the concurrence of the Secretary of State, up to $100,000 in any year to the Department of State to pay an international intergovernmental organization for studies and programs advancing international cooperation concerning patents, trademarks, and other matters.

The specific powers set forth in new subsection (b) are clarified in new subsection (c). The special payments of paragraph (14)(B) are additional to other payments or contributions and are not subject to any limitation imposed by law. Nothing in subsection (b) derogates from the duties of the Secretary of State or the United States Trade Representative as set forth in section 141 of the Trade Act of 1974[19], nor derogates from the duties and functions of the Register of Copyrights. The Director is required to consult with the Administrator of General Services when exercising authority under paragraphs (3) and (4)(A). Nothing in section 4712 may be construed to nullify, void, cancel, or interrupt any pending request-for-proposal let or contract issued by the General Services Administration for the specific purpose of relocating or leasing space to the USPTO. Finally, in exercising the powers and duties under this section, the Director shall consult with the Register of Copyright on all Copyright and related matters.

Sec. 4713. Organization and management

Section 4713 details the organization and management of the agency. The powers and duties of the USPTO shall be vested in the Under Secretary and Director, who shall be appointed by the President, by and with the consent of the Senate. The Under Secretary and Director performs two main functions. As Under Secretary of Commerce for Intellectual Property, she serves as the policy advisor to the Secretary of Commerce and the

President on intellectual property issues. As Director, she is responsible for supervising the management and direction of the USPTO. She shall consult with the Public Advisory Committees, infra, on a regular basis regarding operations of the agency and before submitting budgetary proposals and fee or regulation changes. The Director shall take an oath of office. The President may remove the Director from office, but must provide notification to both houses of Congress.

The Secretary of Commerce, upon nomination of the Director, shall appoint a Deputy Director to act in the capacity of the Director if the Director is absent or incapacitated. The Secretary of Commerce shall also appoint two Commissioners, one for Patents, the other for Trademarks, without regard to chapters 33, 51, or 53 of title 5 of the U.S. Code. The Commissioners will have five-year terms and may be reappointed to new terms by the Secretary. Each Commissioner shall possess a demonstrated experience in patent and trademark law, respectively; and they shall be responsible for the management and direction of the patent and trademark operations, respectively. In addition to receiving a basic rate of compensation under the Senior Executive Service[20] and a locality payment,[21] the Commissioners may receive bonuses of up to 50 percent of their annual basic rate of compensation, not to exceed the salary of the Vice President, based on a performance evaluation by the Secretary, acting through the Director. The Secretary may remove Commissioners for misconduct or unsatisfactory performance. It is intended that the Commissioners will be non-political expert appointees, independently responsible for operations, subject to supervision by the Director.

The Director may appoint all other officers, agents, and employees as she sees fit, and define their responsibilities with equal discretion. The USPTO is specifically not subject to any administratively or statutorily imposed limits (full-time equivalents, or ''FTEs'') on positions or personnel.

The USPTO is charged with developing and submitting to Congress a proposal for an incentive program to retain senior (of the primary examiner grade or higher) patent and trademark examiners eligible for retirement for the sole purpose of training patent and trademark examiners.

The Director of the USPTO, in consultation with the Director of the Office of Personnel Management, is required to maintain a program for identifying national security positions at the USPTO and for providing for appropriate security clearances for USPTO employees in order to maintain the secrecy of inventions as described in section 181 of the Patent Act and to prevent disclosure of sensitive and strategic information in the interest of national security.

The USPTO will be subject to all provisions of title 5 of the U.S. Code governing federal employees. All relevant labor agreements which are in effect the day before enactment of subtitle G shall be adopted by the agency. All USPTO employees as of the day before the effective date of subtitle G shall remain officers and employees of the agency without a break in service. Other personnel of the Department of Commerce shall be transferred to the USPTO only if necessary to carry out purposes of subtitle G of the bill and if a major function of their work is reimbursed by the USPTO, they spend at least half of their work time in support of the USPTO, or a transfer to the USPTO would be in the interest of the agency, as determined by the Secretary of Commerce in consultation with the Director.

On or after the effective date of the Act, the President shall appoint an individual to serve as Director until a Director qualifies under subsection (a). The persons serving as the Assistant Commissioner for Patents and the Assistant Commissioner for Trademarks on the day before the effective date of the Act may serve as the Commissioner for Patents and the Commissioner for Trademarks, respectively, until a respective Commissioner is appointed under subsection (b)(2).

Sec. 4714. Public Advisory Committees

Section 4714 provides a new section 5 of the Patent Act which establishes a Patent Public Advisory Committee and a Trademark Public Advisory Committee. Each Committee has nine voting members with three-year terms appointed by and serving at the pleasure of the Secretary of Commerce. Initial appointments will be made within three months of the effective date of the Act; and three of the initial appointees will receive one-year terms, three will receive two-year terms, and three will receive full terms. Vacancies will be filled within three months. The Secretary will also designate chairpersons for three-year terms.

The members of the Committees will be U.S. citizens and will be chosen to represent the interests of USPTO users. The Patent Public Advisory Committee shall have members who represent small and large entity applicants in the United States in proportion to the number of applications filed by the small and large entity applicants. In no case shall the small entity applicants be represented by less than 25 percent of the members of the Patent Public Advisory Committee, at least one of whom shall be an independent inventor. The members of both Committees shall include individuals with substantial background and achievement in finance, management, labor relations, science, technology, and office automation. The patent and trademark examiners' unions are entitled to have one representative on their respective Advisory Committee in a non-voting capacity.

The Committees meet at the call of the chair to consider an agenda established by the chair. Each Committee reviews the policies, goals, performance, budget, and user fees that bear on its area of concern and advises the Director on these matters. Within 60 days of the end of a fiscal year, the Committees prepare annual reports, transmit the reports to the Secretary of Commerce, the President, and the Committees on the Judiciary of the Congress, and publish the reports in the Official Gazette of the USPTO.

Members of the Committees are compensated at a defined daily rate for meeting and travel days. Members are provided access to USPTO records and information other than personnel or other privileged information including that concerning patent applications. Members are special Government employees within the meaning of section 202 of title 18. The Federal Advisory Committee Act shall not apply to the Committees. Finally, section 4714 provides that Committee meetings shall be open to the public unless by a majority vote the Committee meets in executive session to consider personnel or other confidential information.

Sec. 4715. Conforming amendments

Technical conforming amendments to the Patent Act are set forth in section 4715.

Sec. 4716. Trademark Trial and Appeal Board

Section 4716 amends section 17 of the Trademark Act of 1946 by specifying that the Director shall give notice to all affected parties and shall direct a Trademark Trial and Appeal Board to determine the respective rights of those parties before it in a relevant proceeding. The section also invests the Director with the power of appointing administrative trademark judges to the Board. The Director, the Commissioner for Trademarks, the Commissioner for Patents, and the administrative trademark judges shall serve on the Board.

Sec. 4717. Board of Patent Appeals and Interferences

Under existing section 7 of the Patent Act, the Commissioner, Deputy Commissioner, Assistant Commissioners, and the examiners-in-chief constitute the Board of Patent Appeals and Interferences. Pursuant to section 4717 of subtitle G, the Board shall be comprised of the Director, the Commissioner for Patents, the Commissioner for Trademarks, and the administrative patent judges. In addition, the existing statute allows each appellant a hearing before three members of the Board who are designated by the Director. Section 4717 empowers the Director with this authority.

Sec. 4718. Annual report of Director

No later than 180 days after the end of each fiscal year, the Director must provide a report to Congress detailing funds received and expended by the USPTO, the purposes for which the funds were spent, the quality and quantity of USPTO work, the nature of training provided to examiners, the evaluations of the Commissioners by the Secretary of Commerce, the Commissioners' compensation, and other information relating to the agency.

Sec. 4719. Suspension or exclusion from practice

Under existing section 32 of the Patent Act, the Commissioner (the Director pursuant to this Act) has the authority, after notice and a hearing, to suspend or exclude from further practice before the USPTO any person who is incompetent, disreputable, indulges in gross misconduct or fraud, or is noncompliant with USPTO regulations. Section 4719 permits the Director to designate an attorney who is an officer or employee of the USPTO to conduct a hearing under section 32.

Sec. 4720. Pay of Director and Deputy Director

Section 4720 replaces the Assistant Secretary of Commerce and Commissioner of Patents and Trademarks with the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office to receive pay at Level III of the Executive Schedule.[22] Section 4720 also establishes the pay of the Deputy Director at Level IV of the Executive Schedule.[23]

Subchapter B—Effective Date; Technical Amendments

Sec. 4731. Effective date

The effective date of subtitle G is four months after the date of enactment.

Sec. 4732. Technical and conforming amendments

Section 4732 sets forth numerous technical and conforming amendments related to subtitle G.

Subchapter C—Miscellaneous Provisions

Sec. 4741. References

Section 4741 clarifies that any reference to the transfer of a function from a department or office to the head of such department or office means the head of such department or office to which the function is transferred. In addition, references in other federal materials to the current Commissioner of Patents and Trademarks refer, upon enactment, to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office. Similarly, references to the Assistant Commissioner for Patents are deemed to refer to the Commissioner for Patents and references to the Assistant Commissioner for Trademarks are deemed to refer to the Commissioner for Trademarks.

Sec. 4742. Exercise of authorities

Under section 4742, except as otherwise provided by law, a federal official to whom a function is transferred pursuant to subtitle G may exercise all authorities under any other provision of law that were available regarding the performance of that function to the official empowered to perform that function immediately before the date of the transfer of the function.

Sec. 4743. Savings provisions

Relevant legal documents that relate to a function which is transferred by subtitle G, and which are in effect on the date of such transfer, shall continue in effect according to their terms unless later modified or repealed in an appropriate manner. Applications or proceedings concerning any benefit, service, or license pending on the effective date of subtitle G before an office transferred shall not be affected, and shall continue thereafter, but may later be modified or repealed in the appropriate manner.

Subtitle G will not affect suits commenced before the effective date of passage. Suits or actions by or against the Department of Commerce, its employees, or the Secretary shall not abate by reason of enactment of subtitle G. Suits against a relevant government officer in her official capacity shall continue post enactment, and if a function has transferred to another officer by virtue of enactment, that other officer shall substitute as the defendant. Finally, administrative and judicial review procedures that apply to a function transferred shall apply to the head of the relevant federal agency and other officers to which the function is transferred.

Sec. 4744. Transfer of assets

Section 4744 states that all available personnel, property, records, and funds related to a function transferred pursuant to subtitle G shall be made available to the relevant official or head of the agency to which the function transfers at such time or times as the Director of the Office of Management and Budget (OMB) directs.

Sec. 4745. Delegation and assignment

Section 4745 allows an official to whom a function is transferred under subtitle G to delegate that function to another officer or employee. The official to whom the function was originally transferred nonetheless remains responsible for the administration of the function.

Sec. 4746. Authority of Director of the Office of Management and Budget with respect to functions transferred

Pursuant to section 4746, if necessary the Director of OMB shall make any determination of the functions transferred pursuant to subtitle G.

Sec. 4747. Certain vesting of functions considered transfers

Section 4747 states that the vesting of a function in a department or office pursuant to reestablishment of an office shall be considered to be the transfer of that function.

Sec. 4748. Availability of existing funds

Under section 4748, existing appropriations and funds available for the performance of functions and other activities terminated pursuant to subtitle G shall remain available (for the duration of their period of availability) for necessary expenses in connection with the termination and resolution of such functions and activities, subject to the submission of a plan to House and Senate appropriators in accordance with Public Law 105–277 (Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, Fiscal Year 1999).

Sec. 4749. Definitions

''Function'' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program.

''Office'' includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

SUBTITLE H—MISCELLANEOUS PATENT PROVISIONS

Subtitle H consists of seven largely-unrelated provisions that make needed clarifying and technical changes to the Patent Act . Subtitle H also authorizes a study. The provisions in Subtitle H take effect on the date of enactment except where stated otherwise in certain sections.

Sec. 4801. Provisional applications

Section 4801 amends section 111(b)(5) of the Patent Act by permitting a provisional application to be converted into a non-provisional application. The applicant must make a request within 12 months after the filing date of the provisional application for it to be converted into a non-provisional application.

Section 4801 also amends section 119(e) of the Patent Act by clarifying the treatment of a provisional application when its last day of pendency falls on a weekend or a Federal holiday, and by eliminating the requirement that a provisional application must be copending with a non-provisional application if the provisional application is to be relied on in any USPTO proceeding.

Sec. 4802. International applications

Section 4802 amends section 119(a) of the Patent Act to permit persons who filed an application for patent first in a WTO[24] member country to claim the right of priority in a subsequent patent application filed in the United States, even if such country does not yet afford similar privileges on the basis of applications filed in the United States. This amendment was made in conformity with the requirements of Articles 1 and 2 of the TRIPS Agreement.[25] These Articles require that WTO member countries apply the substantive provisions of the Paris Convention for the Protection of Industrial Property to other WTO member countries. As some WTO member countries are not yet members of the Paris Convention, and as developing countries are generally permitted periods of up to 5 years before complying with all provisions of the TRIPS Agreement, they are not required to extend the right of priority to other WTO member countries until such time.

Section 4802 also adds subsection (f) to section 119 of the Patent Act to provide for the right of priority in the United States on the basis of an application for a plant breeder's right first filed in a WTO member country or in a UPOV[26] Contracting Party. Many foreign countries provide only a sui generis system of protection for plant varieties. Because section 119 presently addresses only patents and inventors' certificates, applicants from those countries are technically unable to base a priority claim on a foreign application for a plant breeder's right when seeking plant patent or utility patent protection for a plant variety in this country.

Subsection (g) is added to section 119 to define the terms ''WTO member country'' and ''UPOV Contracting Party.''

Sec. 4803. Certain limitations on remedies for patent infringement not applicable

Section 4803 amends section 287(c)(4) of the Patent Act, which pertains to certain limitations on remedies for patent infringement, to make it applicable only to applications filed on or after September 30, 1996.

Sec. 4804. Electronic filing and publications

Section 4804 amends section 22 of the Patent Act to clarify that the USPTO may receive, disseminate, and maintain information in electronic form. Subsection (d)(2), however, prohibits the Director from ceasing to maintain paper or microform collections of U.S. patents, foreign patent documents, and U.S. trademark registrations, except pursuant to notice and opportunity for public comment and except the Director shall first submit a report to Congress detailing any such plan, including a description of the mechanisms in place to ensure the integrity of such collections and the data contained therein, as well as to ensure prompt public access to the most current available information, and certifying that the implementation of such plan will not negatively impact the public.

In addition, in the operation of its information dissemination programs and as the sole source of patent data, the USPTO should implement procedures that assure that bulk patent data are provided in such a manner that subscribers have the data in a manner that grants a sufficient amount of time for such subscribers to make the data available through their own systems at the same time the USPTO makes the data publicly available through its own Internet system.

Sec. 4805. Study and report on biologic deposits in support of biotechnology patents

Section 4805 charges the Comptroller General, in consultation with the Director of the USPTO, with conducting a study and submitting a report to Congress no later than six months after the date of enactment on the potential risks to the U.S. biotechnological industry regarding biological deposits in support of biotechnology patents. The study shall include: an examination of the risk of export and of transfers to third parties of biological deposits, and the risks posed by the 18–month publication requirement of subtitle E; an analysis of comparative legal and regulatory regimes; and any related recommendations. The USPTO is then charged with considering these recommendations when drafting regulations affecting biological deposits.

Sec. 4806. Prior invention

Section 4806 amends section 102(g) of the Patent Act to make clear that an inventor who is involved in a USPTO interference proceeding and establishes a date of invention under section 104 is subject to the requirements of section 102(g), including the requirement that the invention was not abandoned, suppressed, or concealed.

Sec. 4807. Prior art exclusion for certain commonly assigned patents

Section 4807 amends section 103 of the Patent Act, which sets forth patentability conditions related to the nonobviousness of subject matter. Section 103(c) of the current statute states that subject matter developed by another person which qualifies as prior art only under section 102(f) or (g) shall not preclude granting a patent on an invention with only obvious differences where the subject matter and claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. The bill amends section 103(c) by adding a reference to section 102(e), which currently bars the granting of a patent if the invention was described in another patent granted on an application filed before the applicant's date of invention. The effect of the amendment is to allow an applicant to receive a patent when an invention with only obvious differences from the applicant's invention was described in a patent granted on an application filed before the applicant's invention, provided the inventions are commonly owned or subject to an obligation of assignment to the same person.

Sec. 4808. Exchange of copies of patents with foreign countries

Sec. 4808 amends section 12 of the Patent Act to prohibit the Director of the USPTO from entering into an agreement to exchange patent data with a foreign country that is not one of our NAFTA[27] or WTO trading partners, unless the Secretary of Commerce explicitly authorizes such an exchange.

TITLE V—MISCELLANEOUS PROVISIONS

Section 5001. Commission on Online Child Protection.

Section 5001(a) provides that references contained in the amendments made by this title are to section 1405 of the Child Online Protection Act (47 U.S.C. 231 note).

Section 5001(b) amends the membership of the Commission on Online Child Protection to remove a requirement that a specific number of representatives come from designated sectors of private industry, as outlined in the Act. Section 5001(b) also provides that the members appointed to the Commission as of October 31, 1999, shall remain as members. Section 5001(b) also prevents the members of the Commission from being paid for their work on the Commission. This provision, however, does not preclude members from being reimbursed for legitimate costs associated with participating in the Commission (such as travel expenses).

Section 5001(c) extends the due date for the report of the Commission by one year.

Section 5001(d) establishes that the Commission's statutory authority will expire either (1) 30 days after the submission of the report required by the Act, or (2) November 30, 2000, whichever is earlier.

Section 5001(e) requires the Commission to commence its first meeting no later than March 31, 2000. Section 5001(e) also requires that the Commission elect, by a majority vote, a chairperson of the Commission not later than 30 days after holding its first meeting.

Section 5001(f) establishes minimum rules for the operations of the Commission, and also allows the Commission to adopt other rules as it deems necessary.

Section 5002. Privacy Protection for Donors to Public Broadcasting Entities.

This provision, which was added in Conference, protects the privacy of donors to public broadcasting entities.

Section 5003. Completion of Biennial Regulatory Review.

Section 5003 provides that, within 180 days after the date of enactment, the FCC will complete the biennial review required by section 202(h) of the Telecommunications Act of 1996. The Conferees expect that if the Commission concludes that it should retain any of the rules under the review unchanged, the Commission shall issue a report that includes a full justification of the basis for so finding.

Section 5004. Broadcasting Entities.

This provision, added in Conference, allows for a remittance of copyright damages for public broadcasting entities where they are not aware and have no reason to believe that their activities constituted violations of copyright law. This is currently the standard for nonprofit libraries, archives and educational institutions.

Section 5005. Technical Amendments Relating to Vessel Hull Design Protection.

This section makes several amendments to chapter 13 of the Copyright Act regarding design protection for vessel hulls. The sunset provision for chapter 13, enacted as part of the Digital Millennium Copyright Act, is removed so that chapter 13 is now a permanent provision of the Copyright Act. The timing and number of joint studies to be done by the Copyright Office and the Patent and Trademark Offices of the effectiveness of chapter 13 are also amended by reducing the number of studies from two to one, and requiring that the one study not be submitted until November 1, 2003. Current law requires delivery of two studies within the first two years of chapter 13, which is unnecessary and an insufficient amount of time for the Copyright Office and the Patent and Trademark Office to accurately measure and assess the effectiveness of design protection within the marine industry.

The definition of a ''vessel'' in chapter 13 is amended to provide that in addition to being able to navigate on or through water, a vessel must be self-propelled and able to steer, and must be designed to carry at least one passenger. This clarifies Congress's intent not to allow design protection for such craft as barges, toy and remote controlled boas, inner tubes and surf boards.

Section 5006. Informal Rulemaking of Copyright Determination.

The Copyright Office has requested that Congress make a technical correction to section 1201(a)(1)(C) of title 17 by deleting the phrase ''on the record.'' The Copyright Office believes that this correction is necessary to avoid any misunderstanding regarding the intent of Congress that the rulemaking proceeding which is the be conducted by the Copyright Office under this provision shall be an informal, rather than a formal, rulemaking proceeding. Accordingly, the phrase ''on the record'' is deleted as a technical correction to clarify the intent of Congress that the Copyright Office shall conduct the rulemaking under section 1201(a)(1)(C) as an informal rulemaking proceeding pursuant to section 553 of Title 5. The intent is to permit interested persons an opportunity to participate through the submission of written statements, oral presentations at one or more of the public hearings, and the submission of written responses to the submissions or presentations of others.

Section 5007. Service of Process for Surety Corporations

This section allows surety corporations, like other corporations, to utilize approved state officials to receive service of process in any legal proceeding as an alternative to having a separate agent for service of process in each of the 94 federal judicial districts.

Section 5008. Low-Power Television.

Section 5008, which can be cited as the Community Broadcasters Protection Act of 1999, will ensure that many communities across the nation will continue to have access to free, over-the-air low-power television (LPTV) stations, even as full-service television stations proceed with their conversion to digital format. In particular, Section 5008 requires the Federal Communications Commission (FCC) to provide certain qualifying LPTV stations with ''primary'' regulatory status, which in turn will enable these LPTV stations to attract the financing that is necessary to provide consumers with critical information and programming. At the same time, recognizing the importance of, and the engineering complexity in, the FCC's plan to convert full-service television stations to digital format, Section 5009 protects the ability of these stations to provide both digital and analog service throughout their existing service areas.

The FCC began awarding licenses for low-power television service in 1982. Low-power television service is a relatively inexpensive and flexible means of delivering programming tailored to the interests of viewers in small localized areas. It also ensures that spectrum allocated for broadcast television service is more efficiently used and promotes opportunities for entering the television broadcast business.

The FCC estimates that there are more than 2,000 licensed and operational LPTV stations, about 1,500 of which are operated in the continental United States by 700 different licensees in nearly 750 towns and cities.[28] LPTV stations serve rural and urban communities alike, although about two-thirds of all LPTV stations serve rural communities. LPTV stations in urban markets typically provide niche programming (e.g., bilingual or non-English programming) to under-served communities in large cities. In many rural markets, LPTV stations are consumers' only source of local, over-the-air programming. Owners of LPTV stations are diverse, including high school and college student populations, churches and religious groups, local governments, large and small businesses, and even individual citizens.

From an engineering standpoint, the term ''low-power television service'' means precisely what it implies, i.e., broadcast television service that operates at a lower level of power than full-service stations. Specifically, LPTV stations radiate 3 kilowatts of power for stations operating on the VHF band (i.e., channels 2 through 13), and 150 kilowatts of power for stations operating on the UHF band (i.e., channels 14 through 69). By comparison, full-service stations on VHF channels radiate up to 316 kilowatts of power, and stations on UHF channels radiate up to 5,000 kilowatts of power. The reduced power levels that govern LPTV stations mean these stations serve a much smaller geographic region than do full-service stations. LPTV signals typically extend to a range of approximately 12 to 15 miles, whereas the originating signal of full-service stations often reach households 60 or 80 miles away.

Compared to its rules for full-service television station licensees, the FCC's rules for obtaining and operating an LPTV license are minimal. But in return for ease of licensing, LPTV stations must operate not only at reduced power levels but also as ''secondary'' licensees. This means LPTV stations are strictly prohibited from interfering with, and must accept signal interference from, ''primary'' licensees, such as full-service television stations. Moreover, LPTV stations must yield at any point in time to full-service stations that increase their power levels, as well as to new full-service stations.

The video programming marketplace is intensely competitive. The three largest broadcast networks that once dominated the market now face competition from several emerging broadcast and cable networks, cable systems, satellite television operators, wireless cable, and even the Internet. Low-power television plays a valuable, albeit modest, role in this market because it is capable of providing locally-originated programming to rural and urban communities that have either no access to local programming, or an over-abundance of national programming.

Low-power television's future, however, is uncertain. To begin with, LPTV's secondary regulatory status means a licensee can be summarily displaced by a full-service station that seeks to expand its own service area, or by a new full-service station seeking to enter the same market. This cloud of regulatory uncertainty necessarily affects the ability of LPTV stations to raise capital over the long-term, irrespective of an LPTV station's popularity among consumers.

The FCC's plan to convert full-service stations to digital substantially complicates LPTV stations' already uncertain future. In its digital television (DTV) proceeding, the FCC adopted a table of allotments for DTV service that provided a second channel for

each existing full-service station to use for DTV service in making the transition from the existing analog technology to the new DTV technology. These second channels were provided to broadcasters on a temporary basis. At the end of the DTV transition, which is currently scheduled for December 31, 2006, they must relinquish one of their two channels.

In assigning DTV channels, the FCC maintained the secondary status of LPTV stations (as well as translators). In order to provide all full-service television stations with a second channel, the FCC was compelled to establish DTV allotments that will displace a number of LPTV stations, particularly in the larger urban market areas where the available spectrum is most congested.

The FCC's plan also provides for the recovery of a portion of the existing broadcast television spectrum so that it can be reallocated to new uses. Specifically, the FCC provided for immediate recovery of broadcast channels 60 through 69, and for recovery of broadcast channels 52 through 59 at the end of the DTV transition. As further required by Congress under the Balanced Budget Act of 1997,[29] the FCC has completed the reallocation of broadcast channels 60 through 69. Existing analog stations, including LPTV stations and a few DTV stations, are permitted to operate on these channels during the DTV transition. But at the end of the transition, all analog broadcast TV stations will have to cease operation, and the DTV stations on broadcast channels 52 through 69 will be relocated to new channels in the DTV core spectrum. As a result, the FCC estimates that the DTV transition will require about 35 to 45 percent of all LPTV stations to either change their operation or cease operation. Indeed, some full-service stations have already ''bumped'' several LPTV stations a number of times, at substantial cost to the LPTV station, with no guarantee that the LPTV station will be permitted to remain on its new channel in the long term.

The conferees, therefore, seek to provide some regulatory certainty for low-power television service. The conferees recognize that, because of emerging DTV service, not all LPTV stations can be guaranteed a certain future. Moreover, it is not clear that all LPTV stations should be given such a guarantee in light of the fact that many existing LPTV stations provide little or no original programming service.

Instead, the conferees seek to buttress the commercial viability of those LPTV stations which can demonstrate that they provide valuable programming to their communities. The House Committee on Commerce's record in considering this legislation reflects that there are a significant number of LPTV stations which broadcast programming—including locally originated programming—for a substantial portion of each day. From the consumers' perspective, these stations provide video programming that is functionally equivalent to the programming they view on full-service stations, as well as national and local cable networks. Consequently, these stations should be afforded roughly similar regulatory status. Section 5008, the Community Broadcasters Protection Act of 1999, will achieve that objective, and at the same time, protect the transition to digital.

Section 5008(a) provides that the short title of this section is the ''Community Broadcasters Protection Act of 1999.''

Section 5008(b) describes the Congress' findings on the importance of low-power television service. The Congress finds that LPTV stations have operated in a manner beneficial to the public, and in many instances, provide worthwhile and diverse services to communities that lack access to over-the-air programming. The Congress also finds, however, that LPTV stations' secondary regulatory status effectively blocks access to capital.

Section 5008(c) amends section 336 of the Communications Act of 1934[30] to require the FCC to create a new ''Class A'' license for certain qualifying LPTV stations. New paragraph (1)(A) in particular directs the FCC to prescribe rules within 120 days of enactment for the establishment of a new Class A television license that will be available to qualifying LPTV stations. The FCC's rules must ensure that a Class A licensee receives the same license terms and renewal standards as any full-service licensee, and that each Class A licensee is accorded primary regulatory status. Subparagraph (B) further requires the FCC, within 30 days of enactment, to send to each existing LPTV licensee a notice that describes the requirements for Class A designation. Within 60 days of enactment (or within 30 days of the FCC's notice), LPTV stations intending to seek Class A designation must submit a certification of eligibility to the FCC. Absent a material deficiency in an LPTV station's certification materials, the FCC is required under subparagraph (B) to grant a certification of eligibility.

Subparagraph (C) permits an LPTV station, within 30 days of the issuance of the rules required under subparagraph (A), to submit an application for Class A designation. The FCC must award a Class A license to a qualifying LPTV station within 30 days of receiving such application. Subparagraph (D) mandates that the FCC must act to preserve the signal contours of an LPTV station pending the final resolution of its application for a Class A license. In the event technical problems arise that require an engineering solution to a full-service station's allotted parameters or channel assignment in the DTV table of allotments, subparagraph (D) requires the FCC to make the necessary modifications to ensure that such full-service station can replicate or maximize its service area, as provided for in the FCC's rules.

With regard to maximization, a full-service digital television station must file an application for maximization or a notice of intent to seek such maximization by December 31, 1999, file a bona fide application for maximization by May 1, 2000, and also comply with all applicable FCC rules regarding the construction of digital television facilities. The term ''maximization'' is defined in paragraph 31 of the FCC's Sixth Report and Order as the process by which stations increase their service areas by operating with additional power or higher antennae than specified in the FCC's digital television table of allotments. Subparagraph(E) requires that a station must reduce the protected contour of its digital television service area in accordance with any modifications requested in future change applications. This provision is intended to ensure that stations indeed utilize the full amount of maximized spectrum for which they originally apply by the aforementioned deadlines.

Paragraph (2) lists the criteria an LPTV station must meet to qualify for a Class A license. Specifically, the LPTV station must: during the 90 days preceding the date of enactment, broadcast a minimum of 18 hours per day—including at least 3 hours per week of locally-originated programming—and also be in compliance with the FCC's rules on low-power television service; and from and after the date of its application for a Class A license, be in compliance with the FCC's rules for full-service television stations. In the alternative, the FCC may qualify an LPTV station as a Class A licensee if it determines that such qualification would serve the public interest, convenience, and necessity or for other reasons determined by the FCC.

Paragraph (3) provides that no LPTV station authorized as of the date of enactment may be disqualified for a Class A license based on common ownership with any other medium of mass communication.

Paragraph (4) makes clear that the FCC is not required to issue Class A LPTV stations (or translators) an additional license for advanced television services. The FCC, however, must accept applications for such services, provided the station will not cause interference to any other broadcast facility applied for, protected, permitted or authorized on the date of the filing of the application for advanced television services. Either the new license for advanced services or the original license must be forfeited at the end of the DTV transition. The licensee may elect to convert to advanced television services on its analog channel, but is not required to convert to digital format until the end of the DTV transition.

Paragraph (5) clarifies that nothing in new subsection 336(f) preempts, or otherwise affects, section 337 of the Communications Act of 1934.[31]

Paragraph (6) precludes the FCC from granting Class A licenses to LPTV stations operating between 698 megahertz (MHz) and 806 MHz (i.e., television broadcast channels 52 through 69). However, the FCC shall provide to LPTV stations assigned to, and temporarily operating on, those channels the opportunity to qualify for a Class A license. If a qualifying LPTV station is ultimately assigned a channel within the band of frequencies that will eventually comprise the ''core spectrum'' (i.e., television broadcast channels 2 through 51), then the FCC is required to issue a Class A license simultaneously. However, the FCC may not grant a Class A license to an LPTV station operating on a channel within the core spectrum that the FCC will identify within 180 days of enactment.

Finally, paragraph (7) provides that the FCC may not grant a Class A license (or a modification thereto) unless the requesting LPTV station demonstrates that it will not interfere with one of three types of radio-based services. First, under subparagraph (A), the LPTV station must show that it will not interfere with: (i) the predicted Grade B contour of any station transmitting in analog format; or (ii) the digital television service areas provided in the DTV table of allotments; or the digital television areas explicitly protected (as opposed to those areas that may be permitted) in the Commission's digital television regulations; or the digital television service areas of stations subsequently granted by the FCC prior to the filing of a Class A application; or lastly, stations seeking to maximize power under the FCC's rules (provided such stations are in compliance with the notification requirements under paragraph (1)).

Second, under subparagraph (B), the LPTV station must show that it will not interfere with any licensed, authorized or pending LPTV station or translator. And third, under subparagraph (C), the LPTV station must show that it will not interfere with other services (e.g., land mobile services) that also operate on television broadcast channels 14 through 20.

Finally, paragraph (8) establishes priority for those LPTVs that are displaced by an application filed under this section, in that these LPTVs have priority over other LPTVs in the assignment of available channels.

FOOTNOTES

[1] See Rust v. Sullivan, 500 U.S. 173 (1991) (grants); Indopco, Inc. v. Commissioner, 503 U.S. 79, 84 (1992) (tax benefits). The First Amendment requires only

that Congress not aim at ''the suppression of dangerous ideas.'' NEA v. Finley, 118 S. Ct. 2168, 2178–79 (1998).

[2] See United States v. O'Brien, 391 U.S. 367 (1968).

[3] See Turner Broadcasting Sys., Inc. v. FCC, 512 U.S. 622, 663 (1994).

[4] See, e.g., H.R. Rep. No. 102–628, p. 51 (1992); S. Rep. No. 102–92, p. 62 (1991); see also Feb. 24 Hearing (Al DeVaney).

[5] The Supreme Court has described the ''two types'' of quasi in rem proceedings: a type I proceeding, in which ''the plaintiff is seeking to secure a pre-existing claim in the subject property and to extinguish or establish the nonexistence of similar interests of particular persons,'' and a type II action, in which ''the plaintiff seeks to apply what he concedes to be the property of the defendant to the satisfaction of a claim against him.'' Hanson v. Denckla, 357 U.S. 235, 246 n.12 (1958).

[6] 15 U.S.C. §1051, et seq.

[7] 149 F.3d 1368 (Fed. Cir. 1998) [hereinafter State Street].

[8] See Dunlop Holdings v. Ram Golf Corp., 524 F.2d 33 (7th Cir. 1975), cert. denied, 424 US 985 (1976).

[9] General Agreement on Tariffs and Trade, Pub. L. No. 103–465. The framework for international trade since its inception in 1948, GATT is now administered under the auspices of the World Trade Organization (WTO) (see note 19, infra).

[10] See Herbert F. Schwartz, Patent Law & Practice (2d ed., Federal Judicial Center, 1995), note 72 at 22. The PCT is a multilateral treaty among more than 50 nations that is designed to simplify the patenting process when an applicant seeks a patent on the same invention in more than one nation. See also 35 U.S.C.A. chs. 35–37 and PCT Applicant's Guide (1992, rev. 1994).

[11] 35 U.S.C. §135(a).

[12] 35 U.S.C. §181.

[13] 5 U.S.C. §§551–559, 701–706, 1305, 3105, 3344, 5372, 7521.

[14] 28 U.S.C. §1295.

[15] 35 U.S.C. §111(b). Pursuant to 35 U.S.C. §111(b)(5), all provisional applications are abandoned 12 months after the date of their filing; accordingly, they are not subject to the 18–month publication requirement.

[16] 35 U.S.C. §171. Since design applications do not disclose technology, inventors do not have a particular interest in having them published. The bill as written therefore simplifies the proposed system of publication to confine the requirement to those applications for which there is a need for publication.

[17] Mar. 20, 1883, as revised at Brussels, Dec. 14, 1900, 25 Stat. 1645, T.S. No. 579, and subsequently through 1967. The Convention has 156 member nations, including the United States.

[18] See 28 U.S.C. §1338.

[19] 19 U.S.C. §2171.

[20] 28 U.S.C. §5382.

[21] 5 U.S.C. §5304(h)(2)(C).

[22] 5 U.S.C. §5314.

[23] 5 U.S.C. §5315.

[24] World Trade Organization. The agreement establishing the WTO is a multilateral instrument which creates a permanent organization to oversee the implementation of the Uruguay Round Agreements, including the GATT 1994, to provide a forum for multilateral trade negotiations and to administer dispute settlements (see note 3, supra). Staff of the House Comm. on Ways and Means, 104th Cong., 1st Sess., Overview and Compilation of U.S. Trade Statutes 1040 (Comm. Print 1995) [hereinafter, Overview and Compilation of U.S. Trade Statutes].

[25] Trade-Related Aspects of Intellectual Property Rights Agreement; i.e., that component of GATT which addresses intellectual property rights among the signatory members.

[26] International Convention for the Protection of New Varieties of Plants. UPOV is administered by the World Intellectual Property Organization (WIPO), which is charged with the administration of, and activities concerning revisions to, the international intellectual property treaties. UPOV has 40 members, and guarantees plant breeders national treatment and right of priority in other countries that are members of the treaty, along with certain other benefits. See M.A. Leaffer, International Treaties on Intellectual Property at 47 (BNA, 2d ed. 1997).

[27] North American Free Trade Agreement, Pub. L. No. 103–182. The cornerstone of NAFTA is the phased-out elimination of all tariffs on trade between the U.S., Canada, and Mexico. Overview and Compilation of U.S. Trade Statutes 1999.

[28] LPTV stations are distinct from so called ''translators.'' Whereas LPTV stations typically offer original programming, translators merely amplify or ''boost'' a full-service television station's signal into rural and mountainous regions adjacent to the station's market.

[29] See 47 U.S.C. §337.

[30] 47 U.S.C. §336.

[31] 47 U.S.C. §337.

By Mr. LEAHY:

S. 1949. A bill to promote economically sound modernization of electric power generation capacity in the United States, to establish requirements to improve the combustion heat rate efficiency of fossil fuel-fired electric utility generating units, to reduce emissions of mercury, carbon dioxide, nitrogen oxides, and sulfur dioxide, to require that all fossil fuel-fired electric utility generating units operating in the United States meet new review requirements, to promote the use of clean coal technologies, and to promote alternative energy and clean energy sources such as solar, wind, biomass, and fuel cells; to the Committee on Finance.

CLEAN POWER PLANT AND MODERNIZATION ACT OF 1999

Mr. LEAHY. Mr. President, Vermonters have a proud tradition of protecting our environment. We have some of the strongest environmental laws in the country. Yet despite this proud tradition of environmental stewardship, we have seen how pollution from outside our state has affected our mountains, lakes and streams. Acid rain caused from sulfur dioxide emissions outside Vermont has drifted through the atmosphere and scarred our mountains and poisoned our streams. Mercury has quietly made its deadly poisonous presence into the food chain of our fish to the point where health advisories have been posted for the consumption of several species. And, despite our own tough air laws and small population, the EPA has considered air quality warnings in Vermont that are comparable to emissions consistent for much larger cities. Silently each night, pollution from outside Vermont seeps into our state, and our exemplary and forward-looking environmental laws are powerless to stop or even limit the encroachment.

The Clean Air Act of 1970 was a milestone law which established national air quality standards for the first time and attempted to provide protection for populations who are affected by emissions outside their own local and state control. That bill did much to halt declining air quality around the country and improve it in some areas. It also acknowledged that fossil fuel utility plants contribute a significant amount of air pollution not only in the area immediately around the plant but can affect air quality hundreds of miles away.

While the bill has improved air quality, changes in the utility market since passage of the Clean Air Act make it necessary to consider important updates to the legislation. States throughout the country are deregulating utilities and soon Congress may consider federal legislation on this issue. I support these economic changes but Congress and the Administration should keep pace with this changing market. Breaking down the barriers of a regulated utility market can have important economic consequences for utility customers. More competition will drive down prices. But these lower costs will come with a price—the cheapest power is unfortunately produced by some of the dirtiest power plants. Most of these power plants were grandfathered under the Clean Air Act.

So today I am introducing the ''Clean Power Plant and Modernization Act'' to address the local, regional, and global air pollution problems that are posed by fossil-fired power plants under a deregulated market.

In the last few weeks, the EPA and the Administration have taken some important steps to address the power plant loophole in the Clean Air Act that allows hundreds of old, mostly coal-fired power plants to continue to pollute at levels much higher than new plants. Closing this loophole is critical to protecting the health of our environment and the health of our children.

Last week the Justice Department and the Environmental Protection Agency filed suit against 32 coal-fired power plants who had made major changes to their plants without also installing new equipment to control smog, acid rain and soot. This is illegal, even under the Clean Air Act, and it spotlights the glaring need to level the playing field for all power plants. This is particularly as our country moves toward a deregulated electricity industry.

Unfortunately, some of our colleagues decided that this move unfairly targeted some of their utilities that have benefitted from this loophole for almost thirty years. I would point out that many of us from New England and New York believe it is unfair that our states have been the dumping ground for the pollution coming out of these plants for the past thirty years. My colleagues have heard me speak on the floor about how this pollution is contaminating our fish with mercury, damaging our lakes and forests with acid rain, and causing respiratory problems and obscuring the view of Vermont's mountains with summertime ozone pollution from nitrogen oxide emissions.

Now, added to these concerns is the growing body of knowledge showing that carbon dioxide emissions are having an impact on the global climate. More than a decade of record heat, reports from around the globe of dying coral reefs, and melting glaciers should be warning signals to all of us.

In Vermont, one of our warning signals is the impact to sugar maples. Sugar maple now range naturally as far south as Tennessee and west of the Mississippi River from Minnesota to Missouri. Given the current predictions for climate changes, by the end of the next century the range of sugar maples in North America will be limited the state of Maine and portions of eastern Canada. Vermont's climate may not

change so much that palm trees will line the streets of Burlington and Montpelier, but the impact on the character and economy of Vermont and many other states will be profound.

It is hard to imagine a Vermont hillside in the fall without the brilliant reds of the sugar maples, and it is hard to imagine a stack of pancakes without Vermont maple syrup. And it is unlikely that sugar maples will be the only species or crop that will be affected by climate change, or that the effects will be limited to Vermont. Many like to dismiss concerns about pollution from power plants as a ''Northeastern issue.'' It is not; it affects all of us, perhaps in ways that we have not even begun to imagine.

I can show you maps that mark the deposition ''hot spots'' for these pollutants in the Everglades, the Upper Midwest, New England, Long Island Sound, Chesapeake Bay and the West Coast. This clearly is not a regional issue. Collectively, fossil fuel-fired power plants constitute the largest source of air pollution in the United States, annually emitting more than 2 billion tons of carbon dioxide, more than 12 million tons of acid rain producing sulfur dioxide, nearly 6 million tons of smog producing nitrogen oxides, and more than 50 tons of highly toxic mercury.

These are staggering sums. Consider the fact that it would take nearly 25,000 Washington Monuments, weighing 81,120 tons apiece, to add up to 2 billion tons. And that is just one year.

Why are we continuing to allow pollutants on that enormous scale to be dumped on some of our most fragile ecosystems, much less into our lungs through the air we breathe? It is because Congress assumed when it passed the 1970 Clean Air Act that these old pollution-prone plants would be retired over time and replaced by newer, cleaner plants. It has not worked out that way, and it is time for the Congress to rethink our strategy.

More than 75 percent of the fossil-fuel fired plants in the United States began operation before the 1970 Clean Air Act was passed. As a result, they are ''grandfathered'' out from under the full force of its regulations. Many of the environmental problems posed by this industry are linked to the antiquated and inefficient technologies at these plants. The average fossil-fuel fired power plant uses combustion technology devised in the 1950's or before. Would any of us buy a car today that was still using 1950s technology? Of course not. So why are we still going out of our way to preserve 1950s technology for power plants?

As long as we allow these plants to operate inefficiently they will produce enormous amounts of air pollution. My bill takes a new approach to reducing this pollution by retiring the inefficient ''grandfathered'' power plants and bring new, clean, and efficient technologies for the 21st Century on line.

Obviously, major changes in this industry will not occur over night. The ''continue-business-as-usual'' inertia is enormous. The old, inefficient, pollution-prone power plants will operate until they fall down because they are paid for, burn the cheapest fuel, and are subject to much less stringent environmental requirements. ''Grandfathered'' plants have the statutory equivalent of an eternal lifetime under the Clean Air Act loophole.

Mr. President, this article in Forbes Magazine describes how valuable the old ''grandfathered'' power plants are. The article cites the example of the ''grandfathered'' Homer City generating station outside of Pittsburgh. Until last year, the utility valued this plant at $540 million. According to the Forbes article, last year the utility sold the plant for $1.8 billion. That works out to $955 per kilowatt of generating capacity, or about the cost of building a new plant. Why are these old pollution-prone plants suddenly so valuable? Maybe their ''grandfathered'' status has something to do with it.

What does my bill propose to do? First, it closes the ''grandfather'' loophole. Second, it lays out an aggressive but achievable set of air pollution and efficiency requirements for fossil-fired power plants. Third, the emissions standards will allow clean coal technologies to have a fair chance to compete in the future mix of electrical power generation. Fourth, it provides industry decision-makers with a comprehensive and predictable set of regulatory requirements and tax code changes so they can see up-front what the playing field is going to look like in the future. This will allow them to make informed, comprehensive, and economically efficient business decisions. Public health and the environment will benefit, consumers will benefit, and the utility companies will benefit from this approach.

As U.S. power plants become more efficient and more power is produced by renewable technologies, less fossil fuel will be consumed. This will have an impact on the workers and communities that produce fossil fuels. These effects are likely to be greatest for coal, even with significant deployment of clean coal technology. The bill provides funding for programs to help workers and communities during the period of transition. I am eager to work with organized labor to ensure that these provisions address the needs of workers, particularly those who may not fully benefit from retraining programs.

The bill provides substantial additional funding for research, development, and commercial demonstrations of renewable and clean energy technologies such as solar, wind, biomass, and fuel cells. As utilities retire their ''grandfathered'' plants and plan for future generating capacity, renewable and clean technologies need to be part of the equation. My bill also authorizes expenditures for implementing known ways of biologically sequestering carbon dioxide from the atmosphere such as planting trees, preserving wetlands, and soil restoration.

How will the environment benefit from the emission and efficiency standards in my bill? Mercury emissions will be cut from more than 50 tons per year to no more than 5 tons per year. Annual emissions of sulfur dioxide that causes acid rain will be cut by more than 6 million tons beyond the requirements in Phase II of the Clean Air Act of 1990. Nitrogen oxide emissions that result in summertime ozone pollution will be cut by more than 3 million tons per year beyond Phase II requirements. And the bill would prevent at least 650 million tons of carbon dioxide emissions per year.

Of course, this discussion should not just be about the impact to our environment. This debate should equally be focused on public health. There is mounting evidence of the health effects of these pollutants. The Washington Post Magazine ran an alarming article that documented the escalating number of children with asthma, jumping to 17.3 million in 1998 from 6.8 million in 1980. Asthma may not be caused directly by air pollution, but it certainly aggravates it and can lead to premature deaths.

The American public still overwhelmingly supports the commitment to the environment that we made in the early 1970s. As stewards of the environment for our children and our grandchildren, we need to act without delay to ensure that in the new millennium the United States produces electricity more efficiently and with much less environmental and public health impact. There is no reason why we should go into the next century still using technology from the era of Ozzie and Harriet.

Mr. President, I ask unanimous consent that a section-by-section overview of the bill, and an article entitled ''Poor Me'' from the May 31, 1999, edition of Forbes Magazine, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1949

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Clean Power Plant and Modernization Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the United States is relying increasingly on old, needlessly inefficient, and highly polluting powerplants to provide electricity;

(2) the pollution from those powerplants causes a wide range of health and environmental damage, including—

(A) fine particulate matter that is associated with the deaths of approximately 50,000 Americans annually;

(B) urban ozone, commonly known as ''smog'', that impairs normal respiratory functions and is of special concern to individuals afflicted with asthma, emphysema, and other respiratory ailments;

(C) rural ozone that obscures visibility and damages forests and wildlife;

(D) acid deposition that damages estuaries, lakes, rivers, and streams (and the plants and animals that depend on them for survival) and leaches heavy metals from the soil;

(E) mercury and heavy metal contamination that renders fish unsafe to eat, with especially serious consequences for pregnant women and their fetuses;

(F) eutrophication of estuaries, lakes, rivers, and streams; and

(G) global climate change that may fundamentally and irreversibly alter human, animal, and plant life;

(3) tax laws and environmental laws—

(A) provide a very strong incentive for electric utilities to keep old, dirty, and inefficient generating units in operation; and

(B) provide a strong disincentive to investing in new, clean, and efficient generating technologies;

(4) fossil fuel-fired power plants, consisting of plants fueled by coal, fuel oil, and natural gas, produce nearly two-thirds of the electricity generated in the United States;

(5) since, according to the Department of Energy, the average combustion heat rate efficiency of fossil fuel-fired power plants in the United States is 33 percent, 67 percent of the heat generated by burning the fuel is wasted;

(6) technology exists to increase the combustion heat rate efficiency of coal combustion from 35 percent to 50 percent above current levels, and technological advances are possible that would boost the net combustion heat rate efficiency even more;

(7) coal-fired power plants are the leading source of mercury emissions in the United States, releasing an estimated 52 tons of this potent neurotoxin each year;

(8) in 1996, fossil fuel-fired power plants in the United States produced over 2,000,000,000 tons of carbon dioxide, the primary greenhouse gas;

(9) on average—

(A) fossil fuel-fired power plants emit 1,999 pounds of carbon dioxide for every megawatt hour of electricity produced;

(B) coal-fired power plants emit 2,110 pounds of carbon dioxide for every megawatt hour of electricity produced; and

(C) coal-fired power plants emit 205 pounds of carbon dioxide for every million British thermal units of fuel consumed;

(10) the average fossil fuel-fired generating unit in the United States commenced operation in 1964, 6 years before the Clean Air Act (42 U.S.C. 7401 et seq.) was amended to establish requirements for stationary sources;

(11)(A) according to the Department of Energy, only 23 percent of the 1,000 largest emitting units are subject to stringent new source performance standards under section 111 of the Clean Air Act (42 U.S.C. 7411); and

(B) the remaining 77 percent, commonly referred to as ''grandfathered'' power plants, are subject to much less stringent requirements;

(12) on the basis of scientific and medical evidence, exposure to mercury and mercury compounds is of concern to human health and the environment;

(13) pregnant women and their developing fetuses, women of childbearing age, and children are most at risk for mercury-related health impacts such as neurotoxicity;

(14) although exposure to mercury and mercury compounds occurs most frequently through consumption of mercury-contaminated fish, such exposure can also occur through—

(A) ingestion of breast milk;

(B) ingestion of drinking water, and foods other than fish, that are contaminated with methyl mercury; and

(C) dermal uptake through contact with soil and water;

(15) the report entitled ''Mercury Study Report to Congress'' and submitted by the Environmental Protection Agency under section 112(n)(1)(B) of the Clean Air Act (42 U.S.C. 7412(n)(1)(B)), in conjunction with other scientific knowledge, supports a plausible link between mercury emissions from combustion of coal and other fossil fuels and mercury concentrations in air, soil, water, and sediments;

(16)(A) the Environmental Protection Agency report described in paragraph (15) supports a plausible link between mercury emissions from combustion of coal and other fossil fuels and methyl mercury concentrations in freshwater fish;

(B) in 1997, 39 States issued health advisories that warned the public about consuming mercury-tainted fish, as compared to 27 States that issued such advisories in 1993; and

(C) the number of mercury advisories nationwide increased from 899 in 1993 to 1,675 in 1996, an increase of 86 percent;

(17) pollution from powerplants can be reduced through adoption of modern technologies and practices, including—

(A) methods of combusting coal that are intrinsically more efficient and less polluting, such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(B) methods of combusting cleaner fuels, such as gases from fossil and biological resources and combined cycle turbines;

(C) treating flue gases through application of pollution controls;

(D) methods of extracting energy from natural, renewable resources of energy, such as solar and wind sources;

(E) methods of producing electricity and thermal energy from fuels without conventional combustion, such as fuel cells; and

(F) combined heat and power methods of extracting and using heat that would otherwise be wasted, for the purpose of heating or cooling office buildings, providing steam to processing facilities, or otherwise increasing total efficiency; and

(18) adopting the technologies and practices described in paragraph (17) would increase competitiveness and productivity, secure employment, save lives, and preserve the future.

(b) PURPOSES.—The purposes of this Act are—

(1) to protect and preserve the environment while safeguarding health by ensuring that each fossil fuel-fired generating unit minimizes air pollution to levels that are technologically feasible through modernization and application of pollution controls;

(2) to greatly reduce the quantities of mercury, carbon dioxide, sulfur dioxide, and nitrogen oxides entering the environment from combustion of fossil fuels;

(3) to permanently reduce emissions of those pollutants by increasing the combustion heat rate efficiency of fossil fuel-fired generating units to levels achievable through—

(A) use of commercially available combustion technology, including clean coal technologies such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(B) installation of pollution controls;

(C) expanded use of renewable and clean energy sources such as biomass, geothermal, solar, wind, and fuel cells; and

(D) promotion of application of combined heat and power technologies;

(4)(A) to create financial and regulatory incentives to retire thermally inefficient generating units and replace them with new units that employ high-thermal-efficiency combustion technology; and

(B) to increase use of renewable and clean energy sources such as biomass, geothermal, solar, wind, and fuel cells;

(5) to establish the Clean Air Trust Fund to fund the training, economic development, carbon sequestration, and research, development, and demonstration programs established under this Act;

(6) to eliminate the ''grandfather'' loophole in the Clean Air Act relating to sources in operation before the promulgation of standards under section 111 of that Act (42 U.S.C. 7411);

(7) to express the sense of Congress that permanent reductions in emissions of greenhouse gases that are accomplished through the retirement of old units and replacement by new units that meet the combustion heat rate efficiency and emission standards specified in this Act should be credited to the utility sector and the owner or operator in any climate change implementation program;

(8) to promote permanent and safe disposal of mercury recovered through coal cleaning, flue gas control systems, and other methods of mercury pollution control;

(9) to increase public knowledge of the sources of mercury exposure and the threat to public health from mercury, particularly the threat to the health of pregnant women and their fetuses, women of childbearing age, and children;

(10) to decrease significantly the threat to human health and the environment posed by mercury;

(11) to provide worker retraining for workers adversely affected by reduced consumption of coal; and

(12) to provide economic development incentives for communities adversely affected by reduced consumption of coal.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Environmental Protection Agency.

(2) GENERATING UNIT.—The term ''generating unit'' means an electric utility generating unit.

SEC. 4. COMBUSTION HEAT RATE EFFICIENCY STANDARDS FOR FOSSIL FUEL-FIRED GENERATING UNITS.

(a) STANDARDS.—

(1) IN GENERAL.—Not later than the day that is 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit that commences operation on or before that day shall achieve and maintain, at all operating levels, a combustion heat rate efficiency of not less than 45 percent (based on the higher heating value of the fuel).

(2) FUTURE GENERATING UNITS.—Each fossil fuel-fired generating unit that commences operation more than 10 years after the date of enactment of this Act shall achieve and maintain, at all operating levels, a combustion heat rate efficiency of not less than 50 percent (based on the higher heating value of the fuel), unless granted a waiver under subsection (d).

(b) TEST METHODS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, shall promulgate methods for determining initial and continuing compliance with this section.

(c) PERMIT REQUIREMENT.—Not later than 10 years after the date of enactment of this Act, each generating unit shall have a permit issued under title V of the Clean Air Act (42 U.S.C. 7661 et seq.) that requires compliance with this section.

(d) WAIVER OF COMBUSTION HEAT RATE EFFICIENCY STANDARD.—

(1) APPLICATION.—The owner or operator of a generating unit that commences operation more than 10 years after the date of enactment of this Act may apply to the Administrator for a waiver of the combustion heat rate efficiency standard specified in subsection (a)(2) that is applicable to that type of generating unit.

(2) ISSUANCE.—The Administrator may grant the waiver only if—

(A)(i) the owner or operator of the generating unit demonstrates that the technology to meet the combustion heat rate efficiency standard is not commercially available; or

(ii) the owner or operator of the generating unit demonstrates that, despite best technical efforts and willingness to make the necessary level of financial commitment, the combustion heat rate efficiency standard is not achievable at the generating unit; and

(B) the owner or operator of the generating unit enters into an agreement with the Administrator to offset by a factor of 1.5 to 1, using a method approved by the Administrator, the emission reductions that the generating unit does not achieve because of the failure to achieve the combustion heat rate efficiency standard specified in subsection (a)(2).

(3) EFFECT OF WAIVER.—If the Administrator grants a waiver under paragraph (1), the generating unit shall be required to achieve and maintain, at all operating levels, the combustion heat rate efficiency standard specified in subsection (a)(1).

SEC. 5. AIR EMISSION STANDARDS FOR FOSSIL FUEL-FIRED GENERATING UNITS.

(a) ALL FOSSIL FUEL-FIRED GENERATING UNITS.—Not later than 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit, regardless of its date of construction or commencement of operation, shall be subject to, and operating in physical and operational compliance with, the new source review requirements under section 111 of the Clean Air Act (42 U.S.C. 7411).

(b) EMISSION RATES FOR SOURCES REQUIRED TO MAINTAIN 45 PERCENT EFFICIENCY.—Not later than 10 years after the date of enactment of this Act, each fossil fuel-fired generating unit subject to section 4(a)(1) shall be in compliance with the following emission limitations:

(1) MERCURY.—Each coal-fired or fuel oil-fired generating unit shall be required to remove 90 percent of the mercury contained in the fuel, calculated in accordance with subsection (e).

(2) CARBON DIOXIDE.—

(A) NATURAL GAS-FIRED GENERATING UNITS.—Each natural gas-fired generating unit shall be required to achieve an emission rate of not more than 0.9 pounds of carbon dioxide per kilowatt hour of net electric power output.

(B) FUEL OIL-FIRED GENERATING UNITS.—Each fuel oil-fired generating unit shall be required to achieve an emission rate of not more than 1.3 pounds of carbon dioxide per kilowatt hour of net electric power output.

(C) COAL-FIRED GENERATING UNITS.—Each coal-fired generating unit shall be required to achieve an emission rate of not more than 1.55 pounds of carbon dioxide per kilowatt hour of net electric power output.

(3) SULFUR DIOXIDE.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 95 percent of the sulfur dioxide that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.3 pounds of sulfur dioxide per million British thermal units of fuel consumed.

(4) NITROGEN OXIDES.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 90 percent of nitrogen oxides that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.15 pounds of nitrogen oxides per million British thermal units of fuel consumed.

(c) EMISSION RATES FOR SOURCES REQUIRED TO MAINTAIN 50 PERCENT EFFICIENCY.—Each fossil fuel-fired generating unit subject to section 4(a)(2) shall be in compliance with the following emission limitations:

(1) MERCURY.—Each coal-fired or fuel oil-fired generating unit shall be required to remove 90 percent of the mercury contained in the fuel, calculated in accordance with subsection (e).

(2) CARBON DIOXIDE.—

(A) NATURAL GAS-FIRED GENERATING UNITS.—Each natural gas-fired generating unit shall be required to achieve an emission rate of not more than 0.8 pounds of carbon dioxide per kilowatt hour of net electric power output.

(B) FUEL OIL-FIRED GENERATING UNITS.—Each fuel oil-fired generating unit shall be required to achieve an emission rate of not more than 1.2 pounds of carbon dioxide per kilowatt hour of net electric power output.

(C) COAL-FIRED GENERATING UNITS.—Each coal-fired generating unit shall be required to achieve an emission rate of not more than 1.4 pounds of carbon dioxide per kilowatt hour of net electric power output.

(3) SULFUR DIOXIDE.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 95 percent of the sulfur dioxide that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.3 pounds of sulfur dioxide per million British thermal units of fuel consumed.

(4) NITROGEN OXIDES.—Each fossil fuel-fired generating unit shall be required—

(A) to remove 90 percent of nitrogen oxides that would otherwise be present in the flue gas; and

(B) to achieve an emission rate of not more than 0.15 pounds of nitrogen oxides per million British thermal units of fuel consumed.

(d) PERMIT REQUIREMENT.—Not later than 10 years after the date of enactment of this Act, each generating unit shall have a permit issued under title V of the Clean Air Act (42 U.S.C. 7661 et seq.) that requires compliance with this section.

(e) COMPLIANCE DETERMINATION AND MONITORING.—

(1) REGULATIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Energy, shall promulgate methods for determining initial and continuing compliance with this section.

(2) CALCULATION OF MERCURY EMISSION REDUCTIONS.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate fuel sampling techniques and emission monitoring techniques for use by generating units in calculating mercury emission reductions for the purposes of this section.

(3) REPORTING.—

(A) IN GENERAL.—Not less than often than quarterly, the owner or operator of a generating unit shall submit a pollutant-specific emission report for each pollutant covered by this section.

(B) SIGNATURE.—Each report required under subparagraph (A) shall be signed by a responsible official of the generating unit, who shall certify the accuracy of the report.

(C) PUBLIC REPORTING.—The Administrator shall annually make available to the public, through 1 or more published reports and 1 or more forms of electronic media, facility-specific emission data for each generating unit and pollutant covered by this section.

(D) CONSUMER DISCLOSURE.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations requiring each owner or operator of a generating unit to disclose to residential consumers of electricity generated by the unit, on a regular basis (but not less often than annually) and in a manner convenient to the consumers, data concerning the level of emissions by the generating unit of each pollutant covered by this section and each air pollutant covered by section 111 of the Clean Air Act (42 U.S.C. 7411).

(f) DISPOSAL OF MERCURY CAPTURED OR RECOVERED THROUGH EMISSION CONTROLS.—

(1) CAPTURED OR RECOVERED MERCURY.—Not later than 2 years after the date of enactment of this Act, the Administrator shall promulgate regulations to ensure that mercury that is captured or recovered through the use of an emission control, coal cleaning, or another method is disposed of in a manner that ensures that—

(A) the hazards from mercury are not transferred from 1 environmental medium to another; and

(B) there is no release of mercury into the environment.

(2) MERCURY-CONTAINING SLUDGES AND WASTES.—The regulations promulgated by the Administrator under paragraph (1) shall ensure that mercury-containing sludges and wastes are handled and disposed of in accordance with all applicable Federal and State laws (including regulations).

(g) PUBLIC REPORTING OF FACILITY-SPECIFIC EMISSION DATA.—

(1) IN GENERAL.—The Administrator shall annually make available to the public, through 1 or more published reports and the Internet, facility-specific emission data for each generating unit and for each pollutant covered by this section.

(2) SOURCE OF DATA.—The emission data shall be taken from the emission reports submitted under subsection (e)(3).

SEC. 6. EXTENSION OF RENEWABLE ENERGY PRODUCTION CREDIT.

Section 45(c) of the Internal Revenue Code of 1986 (relating to definitions) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ''and'';

(B) in subparagraph (B), by striking the period and inserting '', and''; and

(C) by adding at the end the following:

''(C) solar power.'';

(2) in paragraph (3)—

(A) by inserting '', and December 31, 1998, in the case of a facility using solar power to produce electricity'' after ''electricity''; and

(B) by striking ''1999'' and inserting ''2010''; and

(3) by adding at the end the following:

''(4) SOLAR POWER.—The term 'solar power' means solar power harnessed through—

''(A) photovoltaic systems,

''(B) solar boilers that provide process heat, and

''(C) any other means.''.

SEC. 7. MEGAWATT HOUR GENERATION FEES.

(a) IN GENERAL.—Chapter 38 of the Internal Revenue Code of 1986 (relating to miscellaneous excise taxes) is amended by inserting after subchapter D the following:

''Subchapter E—Megawatt Hour Generation Fees

''Sec. 4691. Imposition of fees.

''SEC. 4691. IMPOSITION OF FEES.

''(a) TAX IMPOSED.—There is hereby imposed on each covered fossil fuel-fired generating unit a tax equal to 30 cents per megawatt hour of electricity produced by the covered fossil fuel-fired generating unit.

''(b) ADJUSTMENT OF RATES.—Not less often than once every 2 years beginning after 2002, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall evaluate the rate of the tax imposed by subsection (a) and increase the rate if necessary for any succeeding calendar year to ensure that the Clean Air Trust Fund established by section 9511 has sufficient amounts to fully fund the activities described in section 9511(c).

''(c) PAYMENT OF TAX.—The tax imposed by this section shall be paid quarterly by the owner or operator of each covered fossil fuel-fired generating unit.

''(d) COVERED FOSSIL FUEL-FIRED GENERATING UNIT.—The term 'covered fossil fuel-fired generating unit' means an electric utility generating unit that—

''(1) is powered by fossil fuels;

''(2) has a generating capacity of 5 or more megawatts; and

''(3) because of the date on which the generating unit commenced commercial operation, is not subject to all regulations promulgated under section 111 of the Clean Air Act (42 U.S.C. 7411).''.

(b) CONFORMING AMENDMENT.—The table of subchapters for such chapter 38 is amended by inserting after the item relating to subchapter D the following:

''SUBCHAPTER E. Megawatt hour generation fees.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to electricity produced in calendar years beginning after December 31, 2000.

SEC. 8. CLEAN AIR TRUST FUND.

(a) IN GENERAL.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following:

''SEC. 9511. CLEAN AIR TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the 'Clean Air Trust Fund' (hereafter referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

''(b) TRANSFERS TO TRUST FUND.—There are hereby appropriated to the Trust Fund amounts equivalent to the taxes received in the Treasury under section 4691.

''(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be available, without further Act of appropriation, upon request by the head of the appropriate Federal agency in such amounts as the agency head determines are necessary—

''(1) to provide funding under section 12 of the Clean Power Plant and Modernization Act of 1999, as in effect on the date of enactment of this section;

''(2) to provide funding for the demonstration program under section 13 of such Act, as so in effect;

''(3) to provide assistance under section 15 of such Act, as so in effect;

''(4) to provide assistance under section 16 of such Act, as so in effect; and

''(5) to provide funding under section 17 of such Act, as so in effect.''.

(b) CONFORMING AMENDMENT.—The table of sections for such subchapter A is amended by adding at the end the following:

''Sec. 9511. Clean Air Trust Fund.''.

SEC. 9. ACCELERATED DEPRECIATION FOR INVESTOR-OWNED GENERATING UNITS.

(a) IN GENERAL.—Section 168(e)(3) of the Internal Revenue Code of 1986 (relating to classification of certain property) is amended—

(1) in subparagraph (E) (relating to 15-year property), by striking ''and'' at the end of clause (ii), by striking the period at the end of clause (iii) and inserting '', and'', and by adding at the end the following:

''(iv) any 45-percent efficient fossil fuel-fired generating unit.''; and

(2) by adding at the end the following:

''(F) 12-YEAR PROPERTY.—The term '12-year property' includes any 50-percent efficient fossil fuel-fired generating unit.''.

(b) DEFINITIONS.—Section 168(i) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following:

''(15) FOSSIL FUEL-FIRED GENERATING UNITS.—

''(A) 50-PERCENT EFFICIENT FOSSIL FUEL-FIRED GENERATING UNIT.—The term '50-percent efficient fossil fuel-fired generating unit' means any property used in an investor-owned fossil fuel-fired generating unit pursuant to a plan approved by the Secretary, in consultation with the Administrator of the Environmental Protection Agency, to place into service such a unit that is in compliance with sections 4(a)(2) and 5(c) of the Clean Power Plant and Modernization Act of 1999, as in effect on the date of enactment of this paragraph.

''(B) 45-PERCENT EFFICIENT FOSSIL FUEL-FIRED GENERATING UNIT.—The term '45-percent efficient fossil fuel-fired generating unit' means any property used in an investor-owned fossil fuel-fired generating unit pursuant to a plan so approved to place into service such a unit that is in compliance with sections 4(a)(1) and 5(b) of such Act, as so in effect.''.

(c) CONFORMING AMENDMENT.—The table contained in section 168(c) of the Internal Revenue Code of 1986 (relating to applicable recovery period) is amended by inserting after the item relating to 10-year property the following:

''12-year property ..... 12 years''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property used after the date of enactment of this Act.

SEC. 10. GRANTS FOR PUBLICLY OWNED GENERATING UNITS.

Any capital expenditure made after the date of enactment of this Act to purchase, install, and bring into commercial operation any new publicly owned generating unit that—

(1) is in compliance with sections 4(a)(1) and 5(b) shall, for a 15-year period, be eligible for partial reimbursement through annual grants made by the Secretary of the Treasury, in consultation with the Administrator, in an amount equal to the monetary value of the depreciation deduction that would be realized by reason of section 168(c)(3)(E) of the Internal Revenue Code of 1986 by a similarly-situated investor-owned generating unit over that period; and

(2) is in compliance with sections 4(a)(2) and 5(c) shall, over a 12-year period, be eligible for partial reimbursement through annual grants made by the Secretary of the Treasury, in consultation with the Administrator, in an amount equal to the monetary value of the depreciation deduction that would be realized by reason of section 168(c)(3)(D) of such Code by a similarly-situated investor-owned generating unit over that period.

SEC. 11. RECOGNITION OF PERMANENT EMISSION REDUCTIONS IN FUTURE CLIMATE CHANGE IMPLEMENTATION PROGRAMS.

It is the sense of Congress that—

(1) permanent reductions in emissions of carbon dioxide and nitrogen oxides that are accomplished through the retirement of old generating units and replacement by new generating units that meet the combustion heat rate efficiency and emission standards specified in this Act, or through replacement of old generating units with nonpolluting renewable power generation technologies, should be credited to the utility sector, and to the owner or operator that retires or replaces the old generating unit, in any climate change implementation program enacted by Congress;

(2) the base year for calculating reductions under a program described in paragraph (1) should be the calendar year preceding the calendar year in which this Act is enacted; and

(3) a reasonable portion of any monetary value that may accrue from the crediting described in paragraph (1) should be passed on to utility customers.

SEC. 12. RENEWABLE AND CLEAN POWER GENERATION TECHNOLOGIES.

(a) IN GENERAL.—Under the Renewable Energy and Energy Efficiency Technology Act of 1989 (42 U.S.C. 12001 et seq.), the Secretary of Energy shall fund research and development programs and commercial demonstration projects and partnerships to demonstrate the commercial viability and environmental benefits of electric power generation from—

(1) biomass (excluding unseparated municipal solid waste), geothermal, solar, and wind technologies; and

(2) fuel cells.

(b) TYPES OF PROJECTS.—Demonstration projects may include solar power tower plants, solar dishes and engines, co-firing of biomass with coal, biomass modular systems, next-generation wind turbines and wind turbine verification projects, geothermal energy conversion, and fuel cells.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under any other law, there is authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2001 through 2010.

SEC. 13. CLEAN COAL, ADVANCED GAS TURBINE, AND COMBINED HEAT AND POWER DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Under subtitle B of title XXI of the Energy Policy Act of 1992 (42 U.S.C. 13471 et seq.), the Secretary of Energy shall establish a program to fund projects and partnerships designed to demonstrate

the efficiency and environmental benefits of electric power generation from—

(1) clean coal technologies, such as pressurized fluidized bed combustion and an integrated gasification combined cycle system;

(2) advanced gas turbine technologies, such as flexible midsized gas turbines and baseload utility scale applications; and

(3) combined heat and power technologies.

(b) SELECTION CRITERIA.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall promulgate criteria and procedures for selection of demonstration projects and partnerships to be funded under subsection (a).

(2) REQUIRED CRITERIA.—At a minimum, the selection criteria shall include—

(A) the potential of a proposed demonstration project or partnership to reduce or avoid emissions of pollutants covered by section 5 and air pollutants covered by section 111 of the Clean Air Act (42 U.S.C. 7411); and

(B) the potential commercial viability of the proposed demonstration project or partnership.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts made available under any other law, there is authorized to be appropriated to carry out this section $75,000,000 for each of fiscal years 2001 through 2010.

(2) DISTRIBUTION.—The Secretary shall make reasonable efforts to ensure that, under the program established under this section, the same amount of funding is provided for demonstration projects and partnerships under each of paragraphs (1), (2), and (3) of subsection (a).

SEC. 14. EVALUATION OF IMPLEMENTATION OF THIS ACT AND OTHER STATUTES.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Energy, in consultation with the Chairman of the Federal Energy Regulatory Commission and the Administrator, shall submit to Congress a report on the implementation of this Act.

(b) IDENTIFICATION OF CONFLICTING LAW.—The report shall identify any provision of the Energy Policy Act of 1992 (Public Law 102–486), the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 et seq.), the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 et seq.), or the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.), or the amendments made by those Acts, that conflicts with the intent or efficient implementation of this Act.

(c) RECOMMENDATIONS.—The report shall include recommendations from the Secretary of Energy, the Chairman of the Federal Energy Regulatory Commission, and the Administrator for legislative or administrative measures to harmonize and streamline the statutes specified in subsection (b) and the regulations implementing those statutes.

SEC. 15. ASSISTANCE FOR WORKERS ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL.

In addition to amounts made available under any other law, there is authorized to be appropriated $75,000,000 for each of fiscal years 2001 through 2015 to provide assistance, under the economic dislocation and worker adjustment assistance program of the Department of Labor authorized by title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.), to coal industry workers who are terminated from employment as a result of reduced consumption of coal by the electric power generation industry.

SEC. 16. COMMUNITY ECONOMIC DEVELOPMENT INCENTIVES FOR COMMUNITIES ADVERSELY AFFECTED BY REDUCED CONSUMPTION OF COAL.

In addition to amounts made available under any other law, there is authorized to be appropriated $75,000,000 for each of fiscal years 2001 through 2015 to provide assistance, under the economic adjustment program of the Department of Commerce authorized by the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), to assist communities adversely affected by reduced consumption of coal by the electric power generation industry.

SECTION-BY-SECTION OVERVIEW OF ''THE CLEAN POWER PLANT AND MODERNIZATION ACT OF 1999''

WHAT WILL THE ''CLEAN POWER PLANT AND MODERNIZATION ACT OF 1999'' DO?

The ''Clean Power Plant and Modernization Act of 1999'' lays out an ambitious, achievable, and balanced set of financial incentives and regulatory requirements designed to increase power plant efficiency, reduce emissions, and encourage use of renewable power generation methods. The bill encourages innovation, entrepreneurship, and risk-taking.

The bill encourages ''retirement and replacement'' of old, pollution-prone, and inefficient generating capacity with new, clean, and efficient capacity. The bill does not utilize a ''cap and trade'' approach. Many believe that the ''retirement and replacement'' approach does a superior job at the local and regional levels of protecting public health and the environment from mercury pollution, ozone pollution, and acid deposition. On a global level, the ''retirement and replacement'' also does a far superior job of permanently reducing the volume of carbon dioxide emitted.

WHAT WILL THE BILL DO FOR THE ENVIRONMENT?

The bill would prevent at least 650 million tons of carbon dioxide emissions per year. Over time, even more greenhouse gas emissions will be avoided annually as increases in power plant efficiencies exceed 50%, more combined heat and power systems are installed, and use of renewable energy sources increases. Prevention of greenhouse gas emissions of up to 1 billion tons per year may be possible. Mercury emissions will be cut from more than 50 tons per year to no more than 5 tons per year. Annual emissions of acid rain producing sulfur dioxide emissions will be cut by more than 6 million tons beyond Phase II Clean Air Act of 1990 requirements. Nitrogen oxide emissions that result in summertime ozone pollution will be cut by 3.2 million tons per year beyond Phase II requirements.

Over a 50 year period, the proposal laid out in the bill will prevent more than 30 billion tons in carbon dioxide emissions, and maybe as high as 50 billion tons. Carbon dioxide is further addressed in the bill by authorizing expenditures for implementing known ways of biologically sequestering carbon dioxide from the atmosphere such as planting trees, preserving wetlands, and soil restoration.

Over a 50 year period, more than 2,200 tons of mercury emissions would be avoided. While this might not sound like a lot in relation to the other pollutants, consider that a teaspoon of mercury is enough to contaminate several millions of gallons of water. And over a 50 year period more than 300 million tons of sulfur dioxide and 160 million tons of nitrogen oxides will be prevented beyond the Phase II emission limits specified in the Clean Air Act of 1990.

On average, fossil fuel-fired power plants in the United States operate at a thermal efficiency rate of 33%, converting just one-third of the energy in the fuel to electricity, and wasting 67% of the heat generated by burning the fuel. Increasing efficiency in converting the energy in the fuel into electricity is really the only way to reduce carbon dioxide ''greenhouse'' emissions from these facilities. According to the Energy Information Administration, fossil-fired power plants in the United States emit more the 2 billion tons of carbon dioxide per year (or the weight equivalent of nearly 25,000 Washington Monuments every year). This is approximately 40% of annual domestic carbon dioxide emissions.

Section 4 lays out a phased two-stage process for increasing efficiency. In the first stage, by 10 years after enactment, all units in operation must achieve a heat rate efficiency (at the higher heating value) of not less than 45%. In the second stage, with expected advances in combustion technology, units commencing operation more than 10 years after enactment must achieve a heat rate efficiency (at the higher heating value) of not less than 50%.

If, for some unforeseen reason, technological advances do not achieve the 50% efficiency level, Section 4 contains a waiver provision that allows owners of new units to offset any shortfall in carbon dioxide emissions through implementation of carbon sequestration projects.

Section 5. Air emission standards for fossil fuel-fired generating units

Subsection (a) eliminates the ''grandfather'' loophole in the Clean Air Act and requires all units, regardless of when they were constructed or began operation, to comply with existing new source review requirements under Section 111 of the Clean Air Act. The average ''in service'' date for fossil-fired generating units in the United States is 1964—six years before passage of the Clean Air Act. More than 75% of operating fossil-fired generating units came into service before implementation of the 1970 Clean Air Act and are subject to much less stringent requirements than newer units.

Subsection (b) sets mercury, carbon dioxide, sulfur dioxide, and nitrogen oxide emission standards for units that are subject to the 45% thermal efficiency standards set forth in Section 4. For mercury, 90% removal of mercury contained in the fuel is required. For carbon dioxide, the emission limits are set by fuel type (i.e., natural gas = 0.9 pounds per kilowatt hour of output; fuel oil = 1.3 pounds per kilowatt hour of output; coal = 1.55 pounds per kilowatt hour of output). Ninety-five percent of sulfur dioxide emissions (and not more than 0.3 pounds per million Btus of fuel consumed), and 90 percent of nitrogen oxides (and not more than 0.15 pounds per million Btus of fuel consumed) are to be removed.

Subsection (c) contains the same emission standards for mercury, sulfur dioxide, and nitrogen oxides as those in Subsection (b). Increased thermal efficiency will result in lower emissions of carbon dioxide, and the fuel specific emission limits at the 50% efficiency level are lowered accordingly (i.e., natural gas = 0.8 pounds per kilowatt hour of output; fuel oil = 1.2 pounds per kilowatt hour of output; coal = 1.4 pounds per kilowatt hour of output).

Furthering the public's right-to-know information on emission volumes, Subsection (e) requires EPA to annually publish pollutant-specific emissions data for each generating unit covered by the ''Clean Power Plant and Modernization Act of 1999.'' In addition, at least once per year residential consumers will receive information from their electricity supplier on the emission volumes.

Section 6. Extension of renewable energy production credit

Section 45(c) of the Internal Revenue Code of 1986 is amended to include solar power,

and to extend renewable energy production credit to 2010 (it is currently set to expire in 1999).

Section 7. Mega watt hour generation fee, and Section 8. Clean air trust fund

The Clean Air Trust Fund is similar to the Highway Trust Fund and the Superfund. Revenue for the Clean Air Trust Fund will be provided through implementation of a fee on electricity produced by fossil-fired generating units that are ''grandfathered'' from the Clean Air Act's Section 111 new source requirements. Utilities will be assessed at the rate of 30 cents per megawatt hour of electricity that they produce from ''grandfathered'' units. For residential consumers receiving power from ''grandfathered'' plants, the cost of the fee would average 25 cents per month. Income from the fee will be placed in the Clean Air Trust Fund to pay for: a.) assistance to workers and communities adversely affected by reduced consumption of coal; b.) research and development and demonstration programs for renewable and clean power generation technologies (e.g., wind, solar, biomass, and fuel cells); c) demonstrations of the efficiency, environmental benefits, and commercial viability of electrical power generation from clean coal, advanced gas, and combined heat and power technologies; and d.) carbon sequestration projects.

Section 9. Accelerated depreciation for investor-owned generating units.

Under the Internal Revenue Code of 1986, utilities can depreciate their generating equipment over a 20-year period. New, cleaner and efficient generating technologies will experience shorter physical lifetimes compared to their dirtier, less efficient, but more durable predecessors. Over a 20-year timeframe, most components of new generating units will need to be replaced; some components will be replaced several times. To update the Internal Revenue Code of 1986 to reflect this change in the expected physical lifetimes of generating equipment, Section 9 amends Section 168 of the Code to allow depreciation over a 15-year period for units meeting the 45% efficiency level and the emission standards in Section 5(b) above. Section 168 is further amended to allow for deprecation over a 12-year period for units meeting the 50% efficiency level and the emission standards in Section 5(c).

Section 10. Grants for publicly-owned generating units.

No federal taxes are paid on publicly-owned generating units. Section 10 provides for annual grants in an amount equal to the monetary value of the depreciation deduction that would be realized by a similarly-situated investor owned generating unit under Section 9. Units meeting the 45% efficiency level and the emission standards in Section 5(b) above would receive annual grants over a 15-year period, and units meeting the 50% efficiency level and the emission standards in Section 5(c) would receive annual grants over a 12-year period.

Section 11. Recognition of permanent emission reductions in future climate change implementation programs.

This section expresses the sense of Congress that permanent reductions in emissions of carbon dioxide and nitrogen oxides that are accomplished through the retirement of old generating units and replacement by new generating units that meet the efficiency and emissions standards in the bill, or through replacement with non polluting renewable power generation technologies, should be credited to the utility sector and to the owner/operator in any climate change implementation program enacted by Congress. The base year for calculating reductions will be the year preceding enactment of the ''Clean Power Plant and Modernization Act of 1999.'' The bill stipulates that a portion of any monetary value that may accrue from credits under this section should be passed on to utility customers.

Section 12. Renewable and clean power generation technologies.

This section provides a total of $750 million over 10 years to fund research and development programs and commercial demonstration projects and partnerships to demonstrate the commercial viability and environmental benefits of electric power generation from biomass, geothermal, solar, wind, and fuel cell technologies. Types of projects may include solar power tower plants, solar dishes and engines, co-firing biomass with coal, biomass modular systems, next-generation wind turbines and wind verification projects, geothermal energy conversion, and fuel cells.

Section 13. Clean coal, advanced gas turbine, and combined heat and power generation demonstration program.

This section provides a total of $750 million over 10 years to fund projects and partnerships that demonstrate the efficiency and environmental benefits and commercial viability of electric power generation from clean coal technologies (including, but not limited to, pressurized fluidized bed combustion and integrated gasification combined cycle systems), advanced gas turbine technologies (including, but not limited to, flexible mid-sized gas turbines and baseload utility scale applications), and combined heat and power technologies.

Section 14. Evaluation of implementation of this act and other statutes

Not later than 2 years after enactment, DOE, in consultation with EPA and FERC, shall report to Congress on the implementation of the ''Clean Power Plant and Modernization Act of 1999.'' The report shall identify any provision of the Energy Policy Act of 1992, the Energy Supply and Environmental Coordination Act of 1974, the Public Utilities Regulatory Policies Act of 1978, or the Powerplant and Industrial Fuel Use Act of 1978 that conflicts with the efficient implementation of the ''Clean Power Plant and Modernization Act of 1999.'' The report shall include recommendations for legislative or administrative measures to harmonize and streamline these other statutes.

Section 15. Assistance for workers adversely affected by reduced consumption of coal

With increased power plant efficiency, less fuel will need to be burned to produce a given quantity of electricity. This section provides a total of $1.125 billion over 15 years ($75 million per year) to provide assistance to workers who are adversely affected as a result of reduced consumption of coal by the electric power generation industry. The funds will be administered under the economic dislocation and workers' adjustment assistance program of the Department of Labor authorized by Title III of the Job Training Partnership Act.

Section 16. Community economic development incentives for communities adversely affected by reduced consumption of coal

With increased power plant efficiency, less fuel will need to be burned to produce a given quantity of electricity. This section provides a total of $1.125 billion over 15 years ($75 million per year) to provide assistance to communities adversely affected as a result of reduced consumption of coal by the electric power generation industry. The funds will be administered under the economic adjustment program of the Department of Commerce authorized by the Public Works and Economic Development Act of 1965.

Section 17. Carbon sequestration

This section authorizes expenditure of $345 million over 10 years for development of a long-term carbon sequestration strategy ($45 million) for the United States, and authorizes EPA and USDA to fund carbon sequestration projects including soil restoration, tree planting, wetland's protection, and other ways of biologically sequestering carbon dioxide ($300 million). Projects funded under this section may not be used to offset emissions otherwise mandated by the ''Clean Power Plant and Modernization Act of 1999.''

POOR ME

(By Christopher Palmeri)

Utilities are telling the rate regulators that their old power plants are practically worthless. But they're selling them for fancy prices.

The Homer City Generation Station is a 34-year-old, coal-fired power plant near Pittsburgh. What's it worth? Until last year it was carried on the books of two utilities for $540 million. Then the companies sold it for $1.8 billion, or $955 per kilowatt—about what it would cost to build a brand-spanking-new electric plant.

Are old plants a millstone for utilities as they enter the deregulated future? That's what the utilities are telling rate regulators. We built all these plants over the years because you told us to, they are saying—and now that newcomers are about to undercut us, we need compensation for the ''stranded costs.'' The logic of compensation for stranded costs is unassailable. The only debate is over the amount. Is the average power plant indeed a white elephant?

According to data collected by Cambridge Energy Research Associates, the average nonnuclear power plant put up for sale in the last year sold for nearly twice its book value. Granted, the plants being sold tend to be the more desirable ones, by dint of their location or their fuel efficiency. Still, the pricing makes one wonder whether the power industry should be entitled to much of anything for stranded costs.

Some states—California, Maine, Connecticut and New York, for example—have ordered utilities to sell all or part of their generation capacity. That should set an arm's length fair price. Thanks largely to the fat prices received for its power plants, Sempra Energy, the parent of San Diego Gas & Electric, says that its stranded-cost charges related to generation—about 12% of a typical customer's bill—will be paid off by July. That is two and a half years ahead of schedule, a savings of $400 million for southern Californians.

Not every state legislature or utility commission has the political will to force divestiture, however. If a utility does not want to sell, the utility and the regulators have to estimate the fair market value for a plant and then see if that is a lot less than book value.

This is tricky business. Last year Allegheny Energy, parent of West Penn Power Co., estimated the value of its power plant at $148 a kilowatt, half of their book value. An expert hired by a number of industrial energy users suggested the value should be $409. A hearing revealed that Allegheny had bought back a half-interest in one of its plants two years earlier at a price of $612 a kilowatt. Allegheny settled with the Pennsylvania Public Utility Commission for a

valuation of $225 a kilowatt, half again the original estimate. At that price, Allegheny's 700,000 customers in western Pennsylvania are stuck paying $670 million in stranded costs.

What happens if the utility doesn't get the compensation it wants? Litigation. In New Hampshire the state legislature passed a law designed to open up the power market in 1996. New Hampshire's power companies and utility commission have been tied up in court ever since over the issue of stranded costs.

For this reason, legislators and regulators sometimes feel like they need to cut some deal, any deal, just to get a competitive market moving forward. The state of Virginia, for example, dodged any stranded cost calculation. In a move supported by local utilities, the legislature delayed true competition and simply froze electric rates until 2007. Utilities had donated more than $1 million to Virginia politicians in the last two election cycles.

Last year Ohio legislators proposed a bill to open up the power market. They figured stranded costs at $6 billion, spread among Ohio's eight big utilities. Not liking that number, the utilities came up with an $18 billion figure. The latest compromise is $11 billion. This number represents, in effect, the excess of the plants' book value over their market value.

Wait a minute, says Samuel Randazzo, an attorney for some industrial power users. That $11 billion number is more than the book value of all the plants. Can the utilities lose more than their investment? Negotiations are to continue.

''We are applying a political solution to an economic problem,'' shrugs Ohio utility commissioner Craig Glazer. ''All intellectual arguments have been thrown out the window. Now it comes down to who screams the loudest.

Expect further screaming as utilities enter the deregulated market.

By Mr. ENZI (for himself and Mr. THOMAS):

S. 1950. A bill to amend the Mineral Leasing Act of 1920 to ensure the orderly development of coal, coalbed methane, natural gas, and oil in the Powder River Basin, Wyoming and Montana, and for other purposes; to the Committee on Energy and Natural Resources.

THE POWDER RIVER BASIN RESOURCE DEVELOPMENT ACT

Mr. ENZI. Mr. President, I rise today to introduce the ''Powder River Basin Resource Development Act of 1999.'' This legislation is designed to provide a procedure for the orderly and timely resolution of disputes between coal producers and oil and gas operators in the Powder River Basin in north-central Wyoming and southern Montana. This legislation is cosponsored by my colleague from Wyoming, Senator THOMAS.

Mr. President, the Powder River Basin in Wyoming and southern Montana is one of the richest energy resource regions in the world. This area contains the largest coal reserves in the United States, providing nearly thirty percent of America's total coal production. This region also contains rich reserves of oil and gas, including coalbed methane. Wyoming is the fifth largest producer of natural gas in the county and the sixth largest producer of crude oil. The Powder River Basin plays an important role in the Wyoming's oil and gas production, and this role promises to grow as the exploration and production of coalbed methane increases over the next several years. This region, and the State of Wyoming as a whole, provides many of the resources that heat our homes, fuel our cans, generate electricity for our computers, microwaves, and televisions. In short, there is very little that any of us do in a day that is not affected by the resources of coal, oil, and natural gas.

The production of these natural resources is a vital part of the economy of my home state of Wyoming. The production of coal and oil and gas employs more than 21,000 people in Wyoming. The property taxes, severance taxes, and state and federal royalties fund our schools, our roads, and many of the other services that are essential for the functioning of our state. Since Wyoming has no state income tax, our State relies heavily on the minerals industry for our tax base.

Given the great importance both the coal and oil and gas industries have to Wyoming's economy, the State of Wyoming and the Federal Government have tried to encourage concurrent development in areas where it is feasible and safe to do so. Unfortunately, this is not always possible. This legislation is designed to provide a procedure for the fair and expeditious resolution of conflicts between oil and gas producers and coal producers who have interests on federal land in the Powder River Basin in Wyoming and southern Montana.

Mr. President, this legislation sets forth a reasonable procedure to resolve conflicts between coal producers and oil and gas producers when their mineral rights come into conflict because of overlapping federal leasing. First, this proposal requires that once a potential conflict is identified, the parties must attempt to negotiate an agreement between themselves to resolve this conflict. Second, if the parties are unable to come to an agreement between themselves, either of the parties may file a petition for relief in U.S. district court in the district in which the conflict is located. Third, after such a petition is filed, the court would determine whether an actual conflict exists. Fourth, if the court determines that a conflict does in fact exist, the court would determine whether the public interest, as determined by the greater economic benefit of each mineral, is best served by suspension of the federal coal lease or suspension or termination of all or part of the oil and gas lease. Fifth, a panel of three experts would be assembled to determine the value of the mineral of lesser economic value. Each party to the action; the oil and gas interest, the coal interest, and the federal government, would each appoint one of the three experts. Finally, after the panel issues its final valuation report, the court would enter an order setting the compensation that is due the developer who had to temporarily or permanently forgo his development rights. This compensation would be paid by the owner of the mineral of greater economic value. A credit against federal royalties would also be available against the compensation price in a limited number of situations where the value of such compensation was not foreseen in the original federal lease bid.

Mr. President, the ''Powder River Basin Resource Development Act of 1999'' has several benefits over the present system. First, it requires parties whose mineral interests may come into conflict to attempt to negotiate an agreement among themselves before either one of them may avail themselves of the expedited resolution mechanism. No such requirement exists today. Second, it directs the Secretary of the Interior to encourage expedited development of federal minerals and that are leased pursuant to the federal Mineral Leasing Act, that exist in conflict areas, and which may otherwise be lossed or bypassed. As such, this legislation encourages full and expeditious development of federal resources in this narrow conflict area where it is economically feasible and safe to do so. Third and finally, this bill provides an expeditious procedure to resolve conflicts that cannot be solved by the two parties alone, and it does so in a manner that ensures that any mineral owner will be fairly compensated for any suspension or loss of his mineral rights. In turn, this proposal will prevent the serious economic hardship to hundreds of families and the State treasury that could occur if mineral development is stalled for an indefinite amount of time due to protracted litigation under the current system.

Mr. President, this legislation builds on legislation I introduced last year with Senators THOMAS and BINGAMAN, which passed Congress and was signed into law last November. That bill, S. 2500, ensured that existing lease and contract rights to coalbed methane would not be terminated by a decision from the 10th Circuit Court of Appeals which concluded that coalbed methane gas was reserved to the federal government under earlier coal reservation Acts. As it turned out, the Supreme Court earlier this year realized we got in right in our bill and held that the coalbed methane was in fact a gas and not a solid, and therefore was not reserved to the government under earlier coal reservation Acts. As such, the protections we provided in S. 2500 were guaranteed to future as well as past oil and gas leaseholders.

Mr. President, S. 2500 was an important step in providing certainty and resolution to the question of mineral ownership in Wyoming, and throughout the country. This bill, builds on last year's work by providing a means to

resolve ongoing development conflicts between owners of coal and oil and gas in the Powder River Basin. It represents the result of nearly a year of negotiations between the coal and coalbed producers, as well as the deep oil and gas interests, on a method to fairly reconcile mineral development disputes when they occur because of multiple leasing by the federal government. This bill has also incorporated recommendations made by the Bureau of Land Management. I look forward to working with all the affected parties during the second session of the 106th Congress to pass legislation that will put into place a reasonable, balanced method to ensure that we receive the best return on our valuable natural resources in the Powder River Basin.

By Mr. SCHUMER (for himself and Ms. COLLINS):

S. 1951. A bill to provide the Secretary of Energy with authority to draw down the Strategic Petroleum Reserve when oil and gas prices in the United States rise sharply because of anticompetitive activity, and to require the President, through the Secretary of Energy, to consult with Congress regarding the sale of oil from the Strategic Petroleum Reserve; to the Committee on Energy and Natural Resources.

OIL PRICE SAFEGUARD ACT

Ms. COLLINS. Mr. President, I rise this afternoon to join my distinguished colleague, Senator SCHUMER, in introducing legislation that provides an effective option to the President and the Secretary of Energy to address the unfair, harmful manipulation in the global oil market. The Oil Price Safeguard Act would help to moderate sharp spikes in oil and gas prices caused by price fixing and production quotas through the judicious use of our enormous petroleum reserves.

The global oil market is dominated by an international cartel with the ability to dramatically affect the price of oil. The eleven member countries of the Organization of Petroleum Exporting Countries known as OPEC supply over 40 percent of the world's oil and possess 78 percent of the world's total proven crude oil reserves. Their control of the world's oil supply allows these countries to collude to drive up the price of oil. OPEC has power to dominate the market and when it wields this power, consumers lose. Mr. President, if OPEC operated in the United States, the Department of Justice would undoubtedly prosecute the cartel for violation of U.S. anti-trust laws, but the cartel is beyond the reach of our antitrust enforcement.

To appreciate how much economic power OPEC wields, it is helpful to review the historical relationship between world oil prices and the U.S. Gross Domestic Product. When OPEC cuts production to increase profits, the American consumer suffers, as does our economy. Rising oil prices increase transportation and manufacturing costs, dampening economic growth.

The chart behind me entitled, ''Oil is a Vital Resource for the U.S. Economy,'' was prepared by the Energy Information Administration of the Department of Energy. On this chart, world oil prices are represented by the blue line, and U.S. Gross Domestic Product is represented by the red line. It is easy to see the inverse relationship between the two. When world oil prices are high, U.S. Gross Domestic Product drops. For example, in the late 1970s and early 1980s, as the price of oil climbed, the U.S. economy slumped into a deep recession. Conversely, the strength currently enjoyed by the U.S. economy was until recently accompanied by low oil prices.

If these historical trends hold, the current rise in crude oil prices is a serious threat to our economic prosperity. This second chart entitled ''EIA Crude Oil Price Outlook,'' shows that crude oil prices have risen since January 1999 and are expected to continue rising this winter. To a large extent, this chart demonstrates the ability of OPEC to drive the price of oil up. It is chilling, that the Federal agency responsible for projecting energy prices for the government is predicting that the price of oil will be above $25 a barrel into January of next year. This prediction underscores the need for the legislation Senator SCHUMER and I introduce today.

The bottom line is that consumers, as well as businesses, are hurt by expensive petroleum products. A rise in crude oil prices increases the price of home heating oil and gasoline. Northern states like Maine are particularly hard hit by increased oil prices because of the need to heat homes through long cold winters. Since about 6 out of 10 Maine homes burn oil and the average household uses 800 gallons annually increases in oil prices have a dramatic impact on the state's population and particularly on low-income families and seniors.

A rural state like Maine is also hard hit by increased gasoline prices at the pump since rural residents often travel further distances than those living in urban or suburban areas. For example, my constituents in Aroostook County are currently paying close to $1.50 a gallon for regular octane gasoline. At the same time, higher petroleum prices increase the cost of transporting oil and gasoline to rural areas, like Northern Maine.

At a recent OPEC meeting, the member nations reasserted their resolve to maintain high crude oil prices through production quotas. This is particularly troubling considering that the Energy Information Administration has projected that if New England experiences a particularly cold winter, the price of home heating oil could reach as high as $1.20 per gallon. This is 50 percent higher than what New Englanders paid for oil last year. Even if this winter has normal weather, the Energy Information Administration predicts significantly increased oil prices due in large measure to the OPEC production reductions. This chart, ''Crude and Distillate Price Outlook Higher than Last Winter'' shows projections for steeply increased prices in crude oil and, consequently, home heating oil. As you can see, prices have risen already and are expected to reach levels higher than those experienced during the winter of 1996–97.

Even if our diplomatic efforts fail to break OPEC's choke-hold on the world oil supply, we need not sit idly as oil and gas prices rise well-beyond where they would be in a normally-functioning market.

The United States has a tool available to ease the sting of this unfair market manipulation. The United States owns the largest strategic reserve of crude oil in the world. The Strategic Petroleum Reserve (SPR) consists of roughly 571 million barrels of crude oil held in salt caverns in Texas and Louisiana. The Energy Policy and Conservation Act allows the Secretary of Energy to sell oil from the reserve if the President makes certain findings set forth in the law. In order to tap into the Reserve, the President must determine that an emergency situation exists causing significant and lasting reductions in the supply of oil and severe price increases likely to cause a major adverse impact on the national economy. In the history of the Reserve, the President has only made this declaration once, during the Gulf War.

The legislation I am proud to sponsor with Senator SCHUMER today, who has been a leader on this issue, will give the President more flexibility in using the Strategic Petroleum Reserve to protect American consumers. Specifically, this measure will amend the Energy Policy and Conservation Act to authorize a draw down of the reserve when the President finds that a significant reduction in the supply of oil has been caused by anti-competitive conduct. While many, myself included, believe that the President currently should consider ordering a draw down to counteract OPEC's latest market-distorting production quotas, this legislation will make it clear that he has the power to do so. It will also ensure that the proceeds from a draw-down of the Reserve are used to replenish its oil. The bill does by mandating that the proceeds are deposited in a special account designed for that purpose. We want to give the President the authority to use the SPR to restore market discipline, but not to permanently deplete the reserve in the process.

To further encourage the use of the SPR to offset harmful and uncompetitive activities of foreign pricing cartels, the Oil Price Safeguard Act will require the Secretary of Energy to consult with Congress regarding the sale of oil from the Reserve. If the price of a barrel of crude exceeds 25 dollars for a period greater than 14 days, the

President, through the Secretary of Energy, will be required to submit to Congress a report within thirty days. This report will have four parts. First, it will detail the causes and potential consequences of the price increase. Second, it will provide an estimate of the likely duration of the price increase, based on analyses and forecasts of the Energy Information Administration. Third, it will provide an analysis of the effects of the price increase on the cost of home heating oil. And fourth, the report will provide a specific rationale for why the President does or does not support a draw down and distribution of oil from the SPR to counteract anti-competitive behavior in the oil market.

The bill we are introducing today will grant important new authority to the President to protect consumers from the market-distorting behavior of foreign cartels. It will require the President to explain to Congress and the American people why actions available to the President have not been exercised to protect consumers. I urge my colleagues to join Senator SCHUMER and me in working for expeditious passage of this important measure.

I yield to my colleague, the distinguished Senator from New York, so he may provide further explanation of our legislation. I commend him for his leadership on this issue.

Mr. SCHUMER. I thank Senator COLLINS from Maine for her leadership on this issue. She has well represented her constituents on an issue of great concern. Like Maine, northern New York—much of New York—is very concerned with the prices of oil; not only gasoline but some heating oil, which—just as it is in Maine—is going through the roof in New York as we come into this winter season, which, thus far anyway, has been colder than people have predicted. I thank the Senator for garnering time to talk about our legislation, and I look forward to working with her on this issue.

Two months ago, I wrote President Clinton and Energy Secretary Richardson requesting that they look into the possibility of releasing a modest amount of oil from our Nation's well-stocked Strategic Petroleum Reserve. I made this request not because the price of crude oil was rising, but rather because global oil prices had recently more than doubled, primarily due to the new-found unity between OPEC members and allies to uphold rigid supply quotas—not free market but rigid supply quotas.

OPEC's decision in September to maintain the supply quotas meant the daily global oil supply would remain millions of barrels below last year's levels—and millions of barrels per day below global demand. The effects this decision would have on oil prices were clear. Yesterday, my colleagues—listen to this—oil closed at nearly $26 a barrel, and many industry experts now believe it will go to $30 or even $35 a barrel this winter.

Most industry and financial experts believe oil prices above $25 per barrel for an extended period will adversely affect economic growth, even if you come from Arizona; not only will it raise your gasoline prices—you don't have to worry about home heating oil, but $35 per barrel is clearly recessionary.

The effects will be felt most among the poor and elderly, both at the gas pump and in a sharp increase in the cost of home heating oil. It will effect our manufacturing, transportation, as well as other businesses that rely on oil.

I don't believe in interfering with free markets. But these OPEC decisions are not examples of fair economic play. In fact, OPEC recently announced that it would not even revisit the supply until March of 2000. With American and global oil demand increasing, and a cold winter forecast for North America, OPEC's continued supply quota could have a severely detrimental effect on the U.S. economy over the coming months, and may very well throw sand in the gears of the global economy.

Unfortunately, OPEC, with more than 40 percent market share in the global oil market, can have inordinate power over the global economy.

So the question is, Should we rely on the judgment of OPEC ministers to make the right decision when it comes to the American and the world economy? The answer is clearly no.

The next question is, What can we do about it?

My colleague from Maine, Senator COLLINS, and I have worked together to formulate what we believe is a reasonable response policy by the U.S. Government to instances when foreign oil producers collude to manipulate oil prices to a level that will likely cause a significant adverse impact on our economy, not to mention gasoline, which could go to a $1.60, $1.70, or even higher a gallon, and home heating oil that could go, in my part of the country, from $1 to $1.25 a gallon.

Here is how our legislation works. It works within the parameters of the 1975 Energy Policy and Conservation Act, which set up the U.S. Strategic Petroleum Reserve and the Energy Policy Act of 1992, which described oil supply reductions leading to severe price increases as a potential national emergency.

We simply add a provision that allows the Energy Secretary to order a drawdown of the SPR when oil and gas prices in the U.S. rise sharply because of anticompetitive conduct of foreign oil producers.

Oil supply can fall short for many natural, market-based reasons. But when the shortfall is due to opportunistic manipulations by foreign producers, especially to the degree that it will harm our economic well-being, we have the right to act in our own defense.

That is why our bill also requires the administration to report to Congress within 30 days after the price of oil sustains a price higher than $25 for more than 2 weeks. This reporting requirement—which will get Congress more involved in SPR policies—simply calls for a comprehensive review of the causes and likely consequences of the price increase. It also requires the President to explain why the administration does or does not —we don't force his hand—support the drawdown and distribution of oil from the SPR.

Before concluding, I want to make a few things clear about this legislation. First, it doesn't attempt in any way to bring oil prices down to what some would call unreasonable levels. Most of us believe oil prices were unrealistically low last winter, and that OPEC's initial supply cuts were an understandable strategy to achieve a better balance between global supply and demand.

But to maintain the cuts despite the price recovery and the projected growth in demand amounts to nothing less than price gouging.

OPEC is currently enjoying unity as a cartel not seen since the early 1980s.

The bill also protects our national security by requiring that proceeds from the sale of oil from the SPR be used only to resupply the SPR, with profits from sales remaining in the SPR account. Therefore, in the long run, we are not going to deplete the oil reserve. We are just going to use it to try to bring oil prices to a reasonable level.

And with the SPR currently stocked at 570 million barrels, we have more than enough oil to release several hundred thousand barrels a day in the event of a supply crisis without undercutting our stockpile. This should be more than sufficient to pressure oil producers to increase their supply to more realistically meet demand.

The bottom line is this legislation would show foreign producers the U.S. can and may well intervene when unfair markets threaten our domestic economy. We will say loud and clear our national economic health is a national security issue. That knowledge may be sufficient to prevent OPEC from extensive oil market manipulations in the first place.

A signal to OPEC that we are willing to use some of our strategic reserves to stabilize oil prices is consistent with the prudent long-term approach toward maintaining a stable economy.

Mr. President, this legislation is a measured, bipartisan response to a vital economic issue. I look forward to debating and passing this legislation next year.

With that, I yield back my time to the good Senator from Maine and thank her for her leadership.

Ms. COLLINS. Mr. President, it has been a pleasure to work with the Senator from New York on this issue.

By Mr. BINGAMAN (for himself, Mr. THOMPSON, and Mr. KENNEDY):

S. 1954. A bill to establish a compensation program for employees of the

Department of Energy, its contractors, subcontractors, and beryllium vendors, who sustained beryllium-related illness due to the performance of their duty; to establish a compensation program for certain workers at the Paducah, Kentucky, gaseous diffusion plant; to establish a pilot program for examining the possible relationship between workplace exposure to radiation and hazardous materials and illnesses or health conditions; and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

ENERGY EMPLOYEES' COMPENSATION ACT

Mr. BINGAMAN. Mr. President, I am pleased to introduce today, along with my colleagues, Senators THOMPSON and KENNEDY, a bill to establish compensation programs for workers at Department of Energy sites, contractors, and vendors who are ill because they were exposed to severe chemical and radioactive hazards while on the job. This bill, the Energy Employees' Compensation Act, will recognize three of the more egregious workplace hazards that were allowed to exist over the years at DOE facilities.

The first of these situations was the exposure of workers at DOE sites and vendors to beryllium, a metal that has been used for the past 50 years in the production of nuclear weapons. Even very small amounts of exposure to beryllium can result in the onset of Chronic Beryllium Disease (CBD), an allergic lung reaction resulting in lung scarring and loss of lung function. The only treatment is the use of steroids to control the inflammation. There is no cure. Once a person has been exposed to beryllium, he or she has a lifelong risk of developing CBD. While only 1 to 6 percent of exposed people will generally develop CBD, some work tasks are associated with disease rates as high as 16 percent. Beryllium was used at 20 DOE sites, including sites in my state of New Mexico. An estimated 20,000 workers may have been exposed, including 1,000–1,500 in New Mexico. To date, DOE screening programs have identified 146 cases of CBD among current and former workers, although the number can be expected to grow. The people who are affected by this disease were typically blue-collar workers at these facilities. They are not covered by the federal workers' compensation system, and the various state workers' compensation programs are not well geared to deal with chronic occupational illnesses like CBD. I believe that, since these workers became exposed to beryllium while working in the defense of their country, the country owes them something in return, should they come down with Chronic Beryllium Disease. That is why I will fight to help the workers and their families in New Mexico and elsewhere through this part of the bill.

The second situation which this bill seeks to remedy occurred at the DOE Paducah Gaseous Diffusion Plant in Kentucky. Here, workers were unknowingly exposed to plutonium and other highly radioactive materials that were present in recycled uranium sent to the plant by the former Atomic Energy Commission. The AEC and the managers of the plant knew about this hazard in the 1950s, but enhanced protection for workers at Paducah was not implemented until 1992. This is an unbelievable and outrageous error. These workers deserve full compensation for the health effects of exposures that they were subject to without their knowledge.

The third situation that this bill addresses occurred to 55 workers at the DOE's East Tennessee Technology Park, who also suffered exposures to radiation and hazardous materials that have resulted in occupational illness. Through this provision, DOE can make a grant of $100,000 to each worker, if medical experts find that it is appropriate.

The Department of Energy, under Secretary Richardson's leadership, is facing up to some of its past failures to properly oversee worker health and safety at its facilities. It is a tragedy that we have to introduce and pass bills like this one, particularly in cases where it seems so clear that the problems could have been prevented. But this bill is the right thing to do for workers who served their country and expected that they would be kept safe from occupational injury. As the Congress considers this bill, I hope that we also remain vigilant to the ongoing challenges to worker safety and health at DOE facilities, particularly in the parts of the Department that are being reorganized as a result of legislation we passed earlier this year.

I ask unanimous consent that a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION ANALYSIS

TITLE I—ENERGY EMPLOYEES' BERYLLIUM COMPENSATION ACT

SECTION 101. SHORT TITLE

This section designates this title as the ''Energy Employees' Beryllium Compensation Act.''

SECTION 102. FINDINGS

Employees of the Department of Energy, and employees of the Department's contractors and vendors, have been, and currently may be, exposed to harmful substances, including dust particles or vapor of beryllium, while performing duties uniquely related to the Department of Energy's nuclear weapons production program. Exposure to dust particles or vapor of beryllium in this situation may cause beryllium sensitivity and chronic beryllium disease, and those who suffer beryllium-related health conditions should have uniform and adequate compensation.

SECTION 103. DEFINITIONS

This section provides the definitions of a number of terms necessary to implement this legislation. It also incorporates the definitions of multiple terms from the Federal Employees' Compensation Act, section 8101 of title, United States Code.

A beryllium vendor is defined as those vendors known to have produced or provided beryllium for the Department of Energy. The definition allows the Secretary of Energy to add other vendors by regulation.

A covered employee is defined as an employee of entities that contracted with the Department of Energy to perform certain services at a Department of Energy facility and an employee of a subcontractor. The definition also includes an employee of a beryllium vendor during a time when beryllium was being processed and sold to the Department of Energy. An employee of the federal government is also a covered employee if the employee may have been exposed to beryllium at a Department of Energy facility or that of a beryllium vendor.

Covered illness is defined as Beryllium Sensitivity and Chronic Beryllium Disease. The statute sets forth criteria by which the existence of these conditions may be established. Consequential injuries arising from these conditions are also covered illnesses.

SECTION 104. REGULATORY AUTHORITY TO REVISE DEFINITIONS

This section provides specific authority for the Secretary of Energy to designate by regulation additional entities as beryllium vendors for the purposes of this title. This section also authorizes the Secretary of Energy to provide by regulation additional criteria through which a claimant may establish the existence of a covered illness.

With regard to proposed subsection (a), it is possible that new vendors of beryllium or beryllium-related products will develop contractual relationships with the Department of Energy in the future; as these contractual relationships develop, it will become necessary to designate these vendors as ''beryllium vendors'' for the purposes of this title.

With respect to subsection (b), advances in medical science and testing, and in the medical field's understanding of the harmful effects of exposure to beryllium, are expected to occur. The definition of ''covered illness'' in section 103(4) of this title represents the understanding of the Department of Energy of the current state of medical knowledge on the demonstrated methods of establishing beryllium sensitivity or chronic beryllium disease. This subsection would allow the Secretary of Energy to specify additional criteria by which a claimant may establish existence of a covered illness.

SECTION 105. ADMINISTRATION

This section provides that the Secretary of Energy may administer the program or may enter into an agreement with another agency of the United States, such as the Department of Labor, to administer the program. The Department of Energy would reimburse the other agency for its administrative services.

SECTION 106. EXPOSURE TO BERYLLIUM IN THE PERFORMANCE OF DUTY

In order to receive compensation under the Energy Employees' Beryllium Compensation Act (EEBCA) for any condition related to exposure to beryllium, a covered employee must be determined to have been exposed to beryllium in the performance of duty.

Subsection (a) of this section provides a rebuttable presumption that employees of DOE contractors (section 103(3)(A)) and federal employees (section 103(3)(C)) who were employed at a DOE facility, or whose employment caused them to be present at a DOE or a beryllium vendor's facility, when beryllium was present, were exposed to beryllium in the performance of duty. To rebut the presumptions, substantial evidence would have to be introduced into the record establishing that the covered employee was not exposed to beryllium or beryllium dust during the employee's presence at the facility.

With respect to employees of beryllium vendors (section 103(3)(B)), subsection (b) of

this section provides that these employees have the burden of establishing by substantial evidence exposure to beryllium that was intended for sale to, or to be used by, the DOE. Thus, to the extent that employees of beryllium vendors adduce evidence of exposure to beryllium or beryllium dust solely in circumstances where the eventual product was not intended for sale to, or use by, the DOE, this evidence would not support a finding that the employees were exposed to beryllium in the performance of duty.

SECTION 107. COMPENSATION FOR DISABILITY OR DEATH, MEDICAL SERVICES, AND VOCATIONAL REHABILITATION

This section incorporates into this statute the relevant provisions of the FECA regarding payment of compensation and other benefits for covered illnesses. Provisions incorporated by reference include FECA sections regarding medical services and benefits (5 U.S.C. §8103); vocational rehabilitation (§§8104 and 8111(b)); total (§8105) and partial (§8106) disability; schedule awards for permanent impairment (§§8107–8109); augmented compensation for dependents (§8110); additional compensation for services of attendants (§8111(a)); maximum and minimum monthly payments (§8112); increase or decrease of basic compensation (§8113); wage-earning capacity (§8115); three-day waiting period (§8117); compensation in case of death (§8133); funeral expenses (§8134); lump-sum payment (§8135); and cost-of-living adjustment (§8146a (a) and (b)).

Subsection (b) of this section provides that all of the compensation under this title will come out of the Energy Employees' Beryllium Compensation Fund established pursuant to section 120 of this title and is limited to amounts available in that fund.

Subsection (c) of this section prohibits any payment of compensation for any period prior to the effective date of the title, except for the retroactive lump-sum compensation payment specified in section 111 of this title.

SECTION 108. COMPUTATION OF PAY

This section incorporates 5 U.S.C. §8114 regarding computation of pay into this title. Subsection (b) of this section contains slight wording changes from 5 U.S.C. §8114(d)(3) necessitated by the fact that not all covered employees under this title are federal employees within the meaning of the FECA.

SECTION 109. LIMITATIONS ON RECEIVING COMPENSATION

This section parallels, with some modifications, the restrictions on receipt of compensation simultaneously with receipt of other benefits for the same covered illness set forth in 5 U.S.C. §8116. Subsections (a) and (b) of section 109 contain the same prohibitions against dual benefits sete forth in 5 U.S.C. §8116(a) and (b), and apply to federal employees and beneficiaries whose benefit derives from federal employees. Thus, individuals who are eligible to receive benefits under this title may not simultaneously receive those benefits and an annuity from the Office of Personnel Management, whether such annuity is based on length of service or disability. The election required by subsection (b) is not subject to the provisions of section 110 regarding coordination of benefits.

Subsection (c) applies only to federal employees awarded benefits under this title and under FECA for the same covered illness or death, and requires an election between the two systems.

Once an informed election has been made, the election is irrevocable.

Subsections (d) and (e) require an individual eligible to receive benefits under this title, and also eligible to receive benefits under a state worker's compensation system based on the same covered illness or death, to elect either benefits under this title (subject to the reduction in benefits set forth in section 110) or under the applicable state workers' compensation system, unless the state workers' compensation coverage was secured by an insurance policy or contract, and the Secretary of Energy specifically waives the requirement to make an election. An informed election under these two subsections, once made, is irrevocable.

Subsection (f) requires a widow or widower who would theoretically be eligible for benefits derived from more than one husband or wife to make an election of one benefit. The provision prevents a potential duplication of compensation benefits in unusual, but predictable, circumstances. An informed election under this subsection, once made, is irrevocable.

SECTION 110. COORDINATION OF BENEFITS

This section provides for reduction of benefits under this title if the claimant is awarded benefits under any state or federal workers' compensation system for the same covered illness or death. This section is intended to prevent a double recovery by individuals who have already received compensation for illnesses covered by this title. Subsection (a) of this section provides for a dollar-for-dollar reduction of benefits under this title by the amount of benefits received under this state or federal workers' compensation system, less than reasonable costs of obtaining such benefits. The determination of the reasonable costs obtaining such benefits is a matter reserved to the Secretary of Energy.

Subsection (b) of this section provides that, if the Secretary of Energy has granted a waiver of the election requirement under section 109(d)(2) of this title, the amount of compensation benefits is reduced by eighty percent of the net amount of any state workers' compensation benefits actually received or entitled to be received in the future, after deducting the claimant's reasonable costs (as determined by the Secretary of Energy) of obtaining such benefits. Permitting an employee whose state workers' compensation remedy is secured by insurance to retain an additional twenty percent of state benefits provides an incentive for the employee to seek such benefits in situations where the Secretary of Energy has determined that it is appropriate to waive the election requirement. In these circumstances; value may be obtained for insurance policies purchased prior to the enactment of this title.

SECTION 111. RETROACTIVE COMPENSATION

This section allows an eligible covered employee to elect to receive retroactive compensation of $100,000, in lieu of any other compensation under this title, if the employee was diagnosed, prior to October 1, 1999, as having a beryllium-related pulmonary condition consistent with Chronic Beryllium Disease and if the employee demonstrates the existence of such diagnosis and condition by medical documentation created during the employee's lifetime, at the time of death, or autopsy.

When an employee who would have been eligible to elect to receive retroatice compensation dies prior to making the election, of any cause, the employee's survivors may make the election. The right to make an election shall be afforded to survivors in the order of precedence set forth in section 8109 of title 5, United States Code, which is based, in essence, on proximity of family relationship to the covered employee.

The employee or survivor must make the election within 30 days after the date the Secretary of Energy determined to award compensation for total or partial disability or within 30 days after the date that the Secretary informs the employee or the employee's survivor of the right to make the election, whichever is later, unless the Secretary extends the time. Informed elections are irrevocable and binding on all survivors.

When an employee or a survivor has made an election, no other payment of compensation may be made on account of any other beryllium-releated illness.

A determination that the covered employee had ''beryllium-related pulmonary condition'' does not constitute a determination that he or she had a covered illness.

Retroactive compensation is not subject to a cost of living adjustment.

SECTION 112. EXCLUSIVITY OF REMEDY AGAINST THE UNITED STATES, CONTRACTORS, AND SUBCONTRACTORS

This section provides that the benefits authorized under this title are an exclusive remedy for individuals against the United States, DOE, and DOE contractors and subcontractors, except for proceedings under a state or federal workers compensation statute, subject to sections 109 and 110 of this title.

SECTION 113. ELECTION OF REMEDY AGAINST BERYLLIUM VENDORS

This section provides that if an individual elects to accept payment under this title, acceptance also will be an exclusive remedy against beryllium vendors who have supplied DOE with beryllium products, except for proceedings under a state or federal workers compensation statute, subject to sections 109 and 110.

SECTION 114. CLAIM

This section adopts the requirements of a claim in section 8121, title 5, United States Code, which requires a claim to be in writing and delivered or properly mailed to the Secretary of Energy. The claim must be on an approved form, contain all required information, sworn, and accompanied by a physician's certificate stating the nature of the injury and the nature and probable extent of the disability, although the Secretary may waive these latter four requirements for reasonable cause.

SECTION 115. TIME LIMITATION ON FILING A CLAIM

This section limits the time for fling a claim under this title.

SECTION 116. REVIEW OF AWARD

This section provides that the decisions of the Secretary of Energy in allowing or denying any payment under this title are final, and are not subject to judicial review or review by another official of the United States. For purposes of this section, decisions issued by the Beryllium Compensation Appeals Panel (to be established under regulations authorized by section 122 of this title) are decisions of the designee of the Secretary of Energy, in the same way that the decisions of the Employees' Compensation Appeals Board established under 5 U.S.C. §8149 are decisions of the designee of the Secretary of Labor.

SECTION 117. ASSIGNMENT OF CLAIM

This section is identical to 5 U.S.C. §8130.

SECTION 118. ADJUDICATION

Subsection (a) provides that, if the Secretary of Energy establishes new criteria for establishing coverage of a covered illness by specifically promulgating a regulation pursuant to the authority granted by section 104(b) of this title, a claimant has the right to request reconsideration of a decision awarding or denying coverage. This provision is intended to permit a claimant whose claim was properly denied under the criteria in effect at the time of the initial denial to seek and obtain reconsideration based on the new criteria, notwithstanding the fact that,

under the administrative appeal rights contained in this title, the claimant would not be entitled to reconsideration.

Subsection (b) incorporates into this title FECA provisions regarding physical examinations (§123); findings and awards (§8124); misbehavior at proceedings (§8125); subpoenas, oaths, and examination of witnesses (§8126); representation and attorney's fees (§8127); reconsideration (§8128); and recovery of overpayments (§8129).

SECTION 119. SUBROGATION OF THE UNITED STATES

This section incorporates the provisions of 5 U.S.C. §§8131 and 8132 into this title. Based on these provisions, the United States has the same statutory right of reimbursement of the compensation payable under this title against the proceeds of any recovery from a responsible third party tortfeasor as that set forth in the FECA.

Subsection (c) notes that, for purposes of this title, the last sentence of 5 U.S.C. §8131(a) that an ''employee required to appear as a party or witness in the prosecution of such an action [against a third party] is in an active duty status while so engaged'' applies only to federal employees covered under this title, as defined in section 103(3)(C).

SECTION 120. ENERGY EMPLOYEES BERYLLIUM COMPENSATION FUND

This section creates in the U.S. Treasury the Energy Employees' Beryllium Compensation Fund, which consists of amounts appropriated to it or transferred to it from other DOE accounts and amounts that otherwise accrue to it under this title. Amounts in the Fund may be used for the payment of compensation and other benefits and expenses authorized by this title and for payment of administrative expenses.

SECTION 121. FORFEITURE OF BENEFITS BY CONVICTED FELONS

Any individual convicted of violating section 1920 of title 18, United States Code, which prohibits false statements to obtain federal employees' compensation, or any other federal or state criminal statute relating to fraud in the application or receipt of any benefits under the title, or any other workers' compensation Act, shall forfeit (as of the date of conviction) any benefits for any injury occurring on or before the date of the conviction. This forfeiture is in addition to any action of the Secretary of Energy under two other provisions of the FECA that have been incorporated into this title. Section 8106 of title 5, United States Code, provides that an employee who fails to make a required report or knowingly understates earnings forfeits compensation for any period for which the report was required. Section 8129 provides for the recovery of overpayments made to an individual due to a mistake in fact or law by decreasing later payments.

Except for payments to dependents as calculated under section 8133 of title 5, United States Code, an individual confined for the commission of a felony may not receive benefits during the period of incarceration or retroactively after release.

State and federal governments must make available to the Secretary of Energy, upon written request, the names and social security numbers of individuals who are incarcerated for felony offenses.

SECTION 122. REGULATIONS—BERYLLIUM COMPENSATION APPEALS PANEL

This section, modeled after 5 U.S.C. §8149, authorizes the Secretary of Energy to provide by regulation for the creation of the Beryllium Compensation Appeals Panel. This panel is intended to have the same adjudicatory authority over appeals from adverse determinations of claims under this title that the Employees' Compensation Appeals Board exercises over appeals from adverse determinations of claims under the FECA.

SECTION 123. CIVIL SERVICE RETENTION RIGHTS

This section provides that a federal employee who meets the definition of a covered employee within the meaning of section 103(3)(C) of this title has the same civil service retention rights as are applicable to federal employees by virtue of the provisions of 5 U.S.C. §8151. Civil Service retention rights are administered by the Office of Personnel Management; as with 5 U.S.C. §8151, see Charles J. McQuistion, 37 ECAB 193 (1985), this section is intended to be administered, enforced, and interpreted by OPM.

SECTION 124. ANNUAL REPORT

This section provides that the Secretary of Energy will prepare a report with respect to the administration of this title on a fiscal year basis, and will submit this report to Congress.

SECTION 125. AUTHORIZATION OF APPROPRIATIONS

This section authorizes appropriations and authorizes transfers from other DOE accounts, to the extent provided in advance in appropriations Acts, to carry out the purposes of this title. This section also provides that the Secretary limit the amount for the payment of compensation and other benefits to an amount not in excess of the sum of the appropriations to the Fund and amounts made available by transfer to the Fund.

SECTION 126. CONSTRUCTION

This section provides that any amendments to provisions of the Federal Employees' Compensation Act, 5 U.S.C. §§8101–8151, which have been incorporated by reference into this title, will also be effective to proceedings under this title.

SECTION 127. CONFORMING AMENDMENTS

This section makes conforming amendments to criminal provisions of the United States Code (18 U.S.C. §§1920, 1921, and 1922).

SECTION 128. EFFECTIVE DATE

This section provides that the title is effective upon enactment, and applies to all claims, civil actions, and proceedings ''pending on, or filed on or after, the date of the enactment'' of this title. Because compensation under this title constitutes a covered employee's exclusive remedy against the United States, and DOE's contractors and subcontractors, any claim against the United States (under the Federal Tort Claims Act) or against any of the other above-referenced entities that has not been reduced to a final judgment before the date is barred by this title.

TITLE II—ENERGY EMPLOYEES PILOT PROJECT ACT

SECTION 201. SHORT TITLE

This section designates this Act as the ''Energy Employees Pilot Project Act.''

SECTION 202. PILOT PROJECT

This section directs the Secretary of Energy to conduct a pilot program to examine the possible relationship between workplace exposures to radiation, hazardous materials, or both and occupational illness or other adverse health conditions.

SECTION 203. PHYSICIANS PANEL

This section requires a panel of physicians who specialize in health conditions related to occupational exposure to radiation and hazardous materials to issue a report which examines whether 55 current and former employees of the Department of Energy's East Tennessee Technology Park may have sustained any illness or health condition as a result of their employment.

SECTION 204. SECRETARY OF ENERGY FINDING

The contractor is required by this section to provide the report of the panel to the Secretary of Energy, who will determine whether any of the employees who are covered by the report may have sustained an adverse health condition from their employment.

SECTION 205. AWARD

If the Secretary of Energy makes a positive finding under section 204 concerning an employee, the employee may receive an award of $100,000. If the employee is eligible for an award under title I, the employee may elect to receive payment under this title in place of compensation under title I.

SECTION 206. ELECTION

This section provides that the employee is to make the election under section 205 within a certain period of time. Informed elections are irrevocable and binding on all survivors.

SECTION 207. SURVIVOR'S ELECTION

If an individual dies before making the election, the employee's survivor may make the election. The right to make an election shall be afforded to survivors in the order of precedence set forth in section 8109 of title 5, United States Code, which is based, in essence, on proximity of family relationship to the covered employee.

SECTION 208. STATUS OF AWARD

An award is not income under the Internal Revenue Code.

SECTION 209. PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES, CONTRACTORS, AND SUBCONTRACTORS

This section provides that employees at the facility eligible for benefits under this title can elect which remedy to pursue. If they elect to proceed under this title, then acceptance of payment under this title will be in full settlement of all claims against the United States, DOE, a DOE contractor, a DOE subcontractor, or an employee, agent, or assign of one of them arising out of the condition for which the payment was made, except that the employee would retain the right to proceed under a state workers compensation statute, subject to the reduction-of-benefits provision of subsection (c). Under that subsection, the benefits awarded to a claimant under this title would be reduced by the amount of any other payments received by that claimant because of the same illness or adverse health condition, excluding payments for medical expenses under a workers' compensation system.

SECTION 210. SUBROGATION

This section sets out the conditions under which the United States is subrogated to a claim.

SECTION 211. AUTHORIZATION OF APPROPRIATION

This section authorizes appropriations for the program and provides that authority under this title to make payments is effective in any fiscal year only to the extent, or in the amounts, provided in advance in an appropriation Act

TITLE III—PADUCAH EMPLOYEES' EXPOSURE COMPENSATION ACT

SECTION 301. SHORT TITLE

This section designates this Act as the ''Paducah Employees' Exposure Compensation Act.''

SECTION 302. DEFINITIONS

This section defines a number of terms necessary to implement this legislation, including ''Paducah employee'' and ''specified disease''

SECTION 303. PADUCAH EMPLOYEES' EXPOSURE COMPENSATION FUND

This section establishes in the Treasury of the United States the Paducah Employee's

Exposure Compensation Fund. The amounts in the fund are available for expenditure by the Attorney General under section 305, and the Fund terminates 22 years after the date of enactment of this title. This section also authorizes appropriations to the Fund in the sums necessary to carry out the purposes of the title and provides that authority under this Act to enter into contracts or to make payments is not effective in any fiscal year except to the extent, or in the amounts, provided in advance in appropriations Acts.

SECTION 304. ELIGIBLE EMPLOYEES

This section sets forth who is eligible to receive compensation under this title and provides that an eligible employee who files a claim that the Attorney General determines meets the requirements of this title, receives $100,000 as compensation.

A person eligible for compensation is a Paducah employee (as defined under section 302(2)) who was employed at the Paducah, Kentucky, gaseous diffusion plant for at least one year during the period beginning on January 1, 1953, and ending on February 1, 1992, who during that period was monitored through the use of dosimetry badges for exposure at the plant to radiation from gamma rays or who worked in a job that, as determined by regulation, led to exposure at the plant to radioactive contaminants, including plutonium contaminants; and who submits written medical documentation as to having contracted a specified disease after beginning employment at the plant during the indicated period and after being monitored or beginning work at a job that could have led to exposure as specified.

SECTION 305. DETERMINATION AND PAYMENT OF CLAIMS

Generally, this section sets forth the procedures for filing claims, authority for the Attorney General to consider claims and make compensation payments, consequences of payment of a claim, cost of administering the program, and appeals procedures.

Subsection (a) provides that the Attorney General establish procedures whereby individuals may submit claims for payment under this title.

Subsection (b) provides that the Attorney General determine whether a claim filed under this title meets the requirements of the title. It also provides for consultation with the Surgeon General and the Secretary of Energy in certain instances.

Subsection (c) provides that the Attorney General pay, from amounts available in the Fund, claims filed under this title that the Attorney General determines meet the requirements of this title. This subsection also sets out the conditions under which payments are offset and the United States is subrogated to a claim. It also provides for payment to the survivor of a Paducah employee who is deceased at the time of payment under this section.

Subsection (d) provides that the Attorney General complete the determination on each claim not later than twelve months after the claim is so filed. The Attorney General may request from any claimant, or from any individual or entity on behalf of any claimant, additional information or documentation necessary to complete the determination.

Subsection (e) provides that employees at the Paducah facility eligible for benefits under this title can elect which remedy to pursue. If they elect to proceed under this title, then acceptance of payment under this title will be in full settlement of all claims against the United States, DOE, a DOE contractor, a DOE subcontractor, or an employee, agent, or assign of one of them arising out of the illness for which the payment was made, except for claims in an administrative or judicial proceeding under a state workers' compensation statute, subject to the reduction-of-benefits provision of subparagraph (3). Under that subparagraph, the benefits awarded to a claimant under this title would be reduced by the amount of any other payments received by that claimant because of the same specified illness, excluding payments for medical expenses under a workers' compensation system.

Subsection (f) sets forth how costs of administering the title are paid.

Subsection (g) provides that the duties of the Attorney General under this section cease when the Fund terminates.

Subsection (h) provides that amounts paid to an individual under this section are not subject to federal income tax under the internal revenue laws of the United States; are not included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code or the amount of these benefits; and are not subject to offset under section 3701 et seq. of title 31, United States Code.

Subsection (i) provides that the Attorney General may issue the regulations necessary to carry out this title.

Subsection (j) provides that regulations, guidelines, and procedures to carry out this title shall be issued not later than 270 days after the date of enactment of this title.

Subsection (k) sets forth administrative appeals procedures and procedures for judicial review.

SECTION 306. CLAIMS NOT ASSIGNABLE OR TRANSFERABLE

This section provides that a claim cognizable under this title is not assignable or transferable.

SECTION 307. LIMITATIONS ON CLAIMS

This section provides that claim to which this title applies shall be barred unless the claim is filed within 20 years after the date of the enactment of this title.

SECTION 308. ATTORNEY FEES

This section limits the amount of attorney fees for services rendered in connection with a claim under this title to no more than 10 percent of a payment made on the claim. An attorney who violates this section shall be fined not more than $5,000.

SECTION 309. CERTAIN CLAIMS NOT AFFECTED BY AWARDS OF DAMAGES

This section provides that a payment made under this title shall not be considered as any form of compensation or reimbursement for a loss for purposes of imposing liability on the individual receiving the payment, on the basis of this receipt; to repay any insurance carrier for insurance payments. A payment under this title does not affect any claim against an insurance carrier with respect to insurance.

ADDITIONAL COSPONSORS

S. 88

At the request of Mr. BUNNING, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. 88, a bill to amend title XIX of the Social Security Act to exempt disabled individuals from being required to enroll with a managed care entity under the medicaid program.

S. 345

At the request of Mr. ALLARD, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 345, a bill to amend the Animal Welfare Act to remove the limitation that permits interstate movement of live birds, for the purpose of fighting, to States in which animal fighting is lawful.

S. 505

At the request of Mr. GRASSLEY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 505, a bill to give gifted and talented students the opportunity to develop their capabilities.

S. 751

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 751, a bill to combat nursing home fraud and abuse, increase protections for victims of telemarketing fraud, enhance safeguards for pension plans and health care benefit programs, and enhance penalties for crimes against seniors, and for other purposes.

S. 761

At the request of Mr. ABRAHAM, the name of the Senator from New Hampshire (Mr. SMITH) was added as a cosponsor of S. 761, a bill to regulate interstate commerce by electronic means by permitting and encouraging the continued expansion of electronic commerce through the operation of free market forces, and for other purposes.

S. 961

At the request of Mr. HARKIN, his name was added as a cosponsor of S. 961, a bill to amend the Consolidated Farm And Rural Development Act to improve shared appreciation arrangements.

S. 1187

At the request of Mr. DORGAN, the names of the Senator from Utah (Mr. BENNETT), and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 1187, a bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Lewis and Clark Expedition, and for other purposes.

S. 1272

At the request of Mr. NICKLES, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1272, a bill to amend the Controlled Substances Act to promote pain management and palliative care without permitting assisted suicide and euthanasia, and for other purposes.

S. 1384

At the request of Mr. KOHL, the name of the Senator from Louisiana (Mr. BREAUX) was added as a cosponsor of S. 1384, a bill to amend the Public Health Service Act to provide for a national folic acid education program to prevent birth defects, and for other purposes.

S. 1452

At the request of Mr. SHELBY, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1452, a bill to modernize the requirements under the National Manufactured Housing Construction and Safety Standards of 1974 and to establish a balanced consensus process for the development, revision, and interpretation of Federal construction

and safety standards for manufactured homes.

S. 1526

At the request of Mr. ROCKEFELLER, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1526, a bill to amend the Internal Revenue Code of 1986 to provide a tax credit to taxpayers investing in entities seeking to provide capital to create new markets in low-income communities.

S. 1547

At the request of Mr. BURNS, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1547, a bill to amend the Communications Act of 1934 to require the Federal Communications Commission to preserve low-power television stations that provide community broadcasting, and for other purposes.

S. 1557

At the request of Mr. KERREY, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 1557, a bill to amend the Internal Revenue Code of 1986 to codify the authority of the Secretary of the Treasury to issue regulations covering the practices of enrolled agents.

S. 1579

At the request of Ms. SNOWE, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1579, a bill to amend title 38, United States Code, to revise and improve the authorities of the Secretary of Veterans Affairs relating to the provision of counseling and treatment for sexual trauma experienced by veterans.

S. 1592

At the request of Mr. DURBIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1592, a bill to amend the Nicaraguan Adjustment and Central American Relief Act to provide to certain nationals of El Salvador, Guatemala, Honduras, and Haiti an opportunity to apply for adjustment of status under that Act, and for other purposes.

S. 1680

At the request of Mr. ASHCROFT, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 1680, a bill to provide for the improvement of the processing of claims for veterans compensation and pensions, and for other purposes.

S. 1762

At the request of Mr. COVERDELL, the name of the Senator from Georgia (Mr. CLELAND) was added as a cosponsor of S. 1762, a bill to amend the Watershed Protection and Flood Prevention Act to authorize the Secretary of Agriculture to provide cost share assistance for the rehabilitation of structural measures constructed as part of water resources projects previously funded by the Secretary under such Act or related laws.

S. 1798

At the request of Mr. REID, his name was added as a cosponsor of S. 1798, a bill to amend title 35, United States Code, to provide enhanced protection for investors and innovators, protect patent terms, reduce patent litigation, and for other purposes.

S. 1803

At the request of Mr. ROBB, the names of the Senator from Connecticut (Mr. DODD) and the Senator from New Jersey (Mr. TORRICELLI) were added as cosponsors of S. 1803, a bill to amend the Internal Revenue Code of 1986 to extend permanently and expand the research tax credit.

S. 1812

At the request of Mr. WARNER, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1812, a bill to establish a commission on a nuclear testing treaty, and for other purposes.

S. 1814

At the request of Mr. SMITH, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1814, a bill to establish a system of registries of temporary agricultural workers to provide for a sufficient supply of such workers and to amend the Immigration and Nationality Act to streamline procedures for the admission and extension of stay of nonimmigrant agricultural workers, and for other purposes.

S. 1823

At the request of Mr. DEWINE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1823, a bill to revise and extend the Safe and Drug-Free Schools and Communities Act of 1994.

S. 1825

At the request of Mr. ROCKEFELLER, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 1825, a bill to empower telephone consumers, and for other purposes.

S. 1900

At the request of Mr. LAUTENBERG, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Rhode Island (Mr. REED), and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of S. 1900, a bill to amend the Internal Revenue Code of 1986 to allow a credit to holders of qualified bonds issued by Amtrak, and for other purposes.

S. 1911

At the request of Mrs. HUTCHISON, her name was added as a cosponsor of S. 1911, a bill to conserve Atlantic highly migratory species of fish, and for other purposes.

SENATE RESOLUTION 106

At the request of Mr. DOMENICI, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of Senate Resolution 106, a resolution to express the sense of the Senate regarding English plus other languages.

SENATE RESOLUTION 128

At the request of Mr. COCHRAN, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Indiana (Mr. BAYH), and the Senator from Oregon (Mr. SMITH) were added as cosponsors of Senate Resolution 128, a resolution designating March 2000, as ''Arts Education Month.''

SENATE RESOLUTION 217

At the request of Mr. HUTCHINSON, the names of the Senator from Maine (Ms. SNOWE), the Senator from Washington (Mr. GORTON), the Senator from Georgia (Mr. COVERDELL), and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of Senate Resolution 217, a resolution relating to the freedom of belief, expression, and association in the People's Republic of China.

SENATE RESOLUTION 227

At the request of Mr. BRYAN, the names of the Senator from Nebraska (Mr. KERREY) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of Senate Resolution 227, a resolution expressing the sense of the Senate in appreciation of the National Committee for Employer Support of the Guard and Reserve.

At the request of Mr. SANTORUM, his name was added as a cosponsor of Senate Resolution 227, supra.

AMENDMENT NO. 2667

At the request of Mr. FEINGOLD the names of the Senator from Minnesota (Mr. WELLSTONE), the Senator from Wisconsin (Mr. KOHL), and the Senator from North Carolina (Mr. EDWARDS) were added as cosponsors of Amendment No. 2667 intended to be proposed to S. 625, a bill to amend title 11, United States Code, and for other purposes.

SENATE CONCURRENT RESOLUTION 74—RECOGNIZING THE UNITED STATES BORDER PATROL'S 75 YEARS OF SERVICE SINCE ITS FOUNDING

Mrs. HUTCHISON (for herself, Mr. ABRAHAM, Mr. KYL, and Mr. GRAMM) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 74

Whereas the Mounted Guard was assigned to the Immigration Service under the Department of Commerce and Labor from 1904 to 1924;

Whereas the founding members of this Mounted Guard included Texas Rangers, sheriffs, and deputized cowboys who patrolled the Texas frontier looking for smugglers, rustlers, and people illegally entering the United States;

Whereas following the Department of Labor Appropriation Act of May 28, 1924, the Border Patrol was established within the Bureau of Immigration, with an initial force of 450 Patrol Inspectors, a yearly budget of $1 million, and $1,300 yearly pay for each Patrol Inspector, with each patrolman furnishing his own horse;

Whereas changes regarding illegal immigration and increases of contraband alcohol traffic brought about the need for this young patrol force to have formal training in border enforcement;

Whereas during the Border Patrol's 75-year history, Border Patrol Agents have been deputized as United States Marshals on numerous occasions;

Whereas the Border Patrol's highly trained and motivated personnel have also assisted in controlling civil disturbances, performing National security details, aided in foreign training and assessments, and responded with security and humanitarian assistance in the aftermath of numerous natural disasters;

Whereas the present force of over 8,000 agents, located in 146 stations under 21 sectors, is responsible for protecting more than 8,000 miles of international land and water boundaries;

Whereas, with the increase in drug-smuggling operations, the Border Patrol has also been assigned additional interdiction duties, and is the primary agency responsible for drug interdiction between ports-of-entry;

Whereas Border Patrol agents have a dual role of protecting the borders and enforcing immigration laws in a fair and humane manner; and

Whereas the Border Patrol has a historic mission of firm commitment to the enforcement of immigration laws, but also one fraught with danger, as illustrated by the fact that 86 agents and pilots have lost their lives in the line of duty—6 in 1998 alone: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress recognizes the historical significance of the United States Border Patrol's founding and its 75 years of service to our great Nation.

SENATE CONCURRENT RESOLUTION 75—EXPRESSING THE STRONG OPPOSITION OF CONGRESS TO THE CONTINUED EGREGIOUS VIOLATIONS OF HUMAN RIGHTS AND THE LACK OF PROGRESS TOWARD THE ESTABLISHENT OF DEMOCRACY AND THE RULE OF LAW IN BELARUS AND CALLING ON PRESIDENT ALEXANDER LUKASHENKA TO ENGAGE IN NEGOTIATONS WITH THE REPRESENTATIVES OF THE OPPOSITION AND TO RESTORE THE CONSTITUTIONAL RIGHTS OF THE BELARUSIAN PEOPLE

Mr. DURBIN (for himself and Mr. CAMPBELL) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 75

Whereas the United States has a vital interest in the promotion of democracy abroad and supports democracy and economic development in Belarus;

Whereas in the Fall of 1996, President Lukashenka devised a controversial referendum to impose a new constitution on Belarus and abolish the Parliament, replacing it with a rubber-stamp legislature;

Whereas Lukashenka illegally extended his own term of office to 2001 by an illegitimate referendum;

Whereas Belarus has effectively become an authoritarian police state, where human rights are routinely violated;

Whereas Belarusian economic development is stagnant and living conditions are deplorable;

Whereas in May 1999, the Belarusian opposition challenged Lukashenka's unconstitutional lengthening of his term by staging alternative presidential elections, unleashing the government crackdown;

Whereas the leader of the opposition, Simyon Sharetsky, was forced to flee Belarus to the neighboring Baltic state of Lithuania in fear for his life;

Whereas several leaders of the opposition—Viktor Gonchar, Yuri Krasovsky, Yuri Zakharenka, Tamara Vinnikova, and other members of the opposition, have disappeared;

Whereas the Belarusian authorities harass and persecute the independent media and work to actively suppress the freedom of speech;

Whereas the former Prime Minister Mikhail Chygir, who was a candidate in the opposition's alternative presidential elections in May 1999, has been held in the pretrial detention on trumped up charges since April 1999;

Whereas President Lukashenka's government provoked the clashes between riot police and the demonstrators at the October 17, 1999, ''Freedom March'', which resulted in injuries to demonstrators and scores of illegal arrests;

Whereas President Lukashenka addressed a session of the Russian State Duma on October 26, 1999, advocating a merger between Russia and Belarus; and

Whereas Anatoly Lebedko, Chairman of the Committee for International Affairs of the Supreme Soviet of the Republic of Belarus, Nikolay Statkevich, leader of the Social Democratic Party, and Valery Shchukin, Deputy of the Supreme Council, were arrested and imprisoned for taking part in the Freedom March: Now, therefore, be it

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

(1) condemns the current Belarusian regime;

(2) further condemns the arrests of Anatoly Lebedko, Nikolay Statkevich, and Valery Shchukin;

(3) is gravely concerned about the disappearances of Viktor Gonchar, Yuri Krasovsky, Yuri Zakharenka, Tamara Vinnikova, and other members of the opposition;

(4) calls for immediate dialogue between President Lukashenka and the Consultative Council of Belarusian opposition and the restoration of a civilian, democratically elected government in Belarus;

(5) calls for a duly constituted national legislature, the rule of law, and an independent judiciary;

(6) urges President Lukashenka to respect the human rights of all Belarusian citizens, including those members of the opposition who are currently being illegally detained in violation of their constitutional rights;

(7) further urges President Lukashenka to make good on his promise to hold free parliamentary elections in 2000;

(8) supports the appeal by the Consultative Council of Belarusian opposition parties to the Government of Russia, the State Duma, and the Federation Council for a cessation of support for Lukashenka's regime;

(9) calls on the international community to support the opposition by continuing to meet with the legitimately elected parliament; and

(10) calls on the President of the United States to continue to—

(A) fund travel to the United States by the Belarusian opposition figures;

(B) provide funding for the nongovernmental organizations in Belarus; and

(C) support information flows into Belarus.

● Mr. DURBIN. Mr. President, in 1996, President Alexander Lukashenka imposed a new constitution on Belarus that effectively destroyed its nascent democracy and returned that country to a Soviet-style police state. Human rights violations are routine and living conditions are deplorable because of the stagnant economy. Opposition leader Simyon Sharetsky fled to Vilnius, Lithuania.

The situation in Belarus has worsened dramatically in recent months for remaining members of the opposition. Some have disappeared, including Viktor Gonchar, Yuri Krasovsky, Yuri Zakharenka, and Tamara Vinnikova. Some have been arrested for taking part in the October 17, 1999 ''Freedom march,'' including Anatoly Lebedko, Chairman of the Committee for International Affairs of the Supreme Soviet of the Republic of Belarus, Nikolay Statkevich, leader of the Social Democratic Party, and Valery Shchukin, Deputy of the Supreme Council.

Poland, Lithuania, and Latvia are very concerned about the direction Belarus has taken under the Lukashenka regime. Belarus' economy is apparently imploding, and neighboring countries are concerned about regional instability. Our recent experience with Slobodan Milosevic's Yugoslavia should make us all concerned about the implications of a ruthless dictator threatening stability in Europe.

Poland, Lithuania, and Latvia have successfully transformed themselves from Soviet-dominated Communist states to fully democratic market democracies integrated with the West and Western institutions. We must be sure that Belarus does not threaten the remarkable progress these stalwart countries have made in only 10 years since the fall of the Soviet empire.

Also troubling is a draft treaty that may be signed before the end of the year between Lukashenka and President Yeltsin to effect a political union between Russia and Belarus. All Western countries should be concerned that such a union would only hurt efforts to shore up Russia's economy and strengthen its fragile democracy.

That is why my colleague, Senator CAMPBELL, and I join together today to a resolution condemning the actions of the Lukashenka regime. This resolution—a companion measure to one introduced by our colleague in the House of Representatives, Representative SAM GEJDENSON—condemns the Lukashenka regime, the arrest of opposition figures and the disappearance of others; calls for a dialog between Lukashenka and the opposition, the restoration of a democratically-elected government and institutions; calls on the U.S. President to fund travel by Belarusian opposition figures and for non-governmental organizations in Belarus and to support information flows into Belarus. I call on my colleagues to join us in cosponsoring this resolution.●

AMENDMENTS SUBMITTED

BANKRUPTCY REFORM ACT OF 1999

FEINGOLD AMENDMENT NO. 2779

Mr. FEINGOLD proposed an amendment to amendment No. 2748 proposed by him to the bill (S. 625) to amend title 11, United States Code, and for other purposes; as follows:

On page 1, line 5, strike all after ''(23) and insert the following:

''under subsection (a)(3) of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property——

''(A) on which the debtor resides as a tenant under a rental agreement; and

''(B) with respect to which——

''(i) the debtor fails to make a rent payment that initially becomes due under the rental agreement or applicable State law after the date of filing of the petition or within the 10 days prior to the filing of the petition, if the lessor files with the court a certification that the debtor has not made a payment for rent and serves a copy of the certification to the debtor; or

''(ii) the debtor's lease has expired according to its terms and (a) or a member of the lessor's immediate family intends to personally occupy that property or (b) the lessor has entered into an enforceable lease agreement with another tenant prior to the filing of the petition, if the lessor files with the court a certification of such facts with the court a certification of such facts and serves a copy of the certification to the debtor:

''(24) under subsection (a)(3) of the commencement or continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property, if during the 1-year period preceding the filing of the petition, the debtor——

''(A) commenced another case under this title; and

''(B) failed to make a rent payment that initially became due under an applicable rental agreement or State law after the date of filing of the petition for that other case; or

''(25) under subsection (a)(3), of an eviction action based on endangerment of property or the use of an illegal drug, if the lessor files with the court a certification that the debtor has endangered property or used an illegal drug and serves a copy of the certification to the debtor''; and

(4) by adding at the end of the flush material at the end of the subsection the following ''With respect to the applicability of paragraph (23) or (25) to a debtor with respect to the commencement or continuation of a proceeding described in that paragraph, the exception to the automatic stay shall become effective on the 15th day after the lessor meets the filing and notification requirements under that paragraph, unless the debtor takes such action as may be necessary to address the subject of the certification or the court orders that the exception to the automatic stay shall not become effective or provides for a later date of applicability.''.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON THE JUDICIARY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, November 17, 1999, after the 10 a.m. vote, to conduct a markup in Dirksen Room 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PANDA TRIBUTE

● Mr. CLELAND. Mr. President, I share with my colleagues some very exciting news coming out of my home state of Georgia. Earlier this month, two giant pandas, Lun Lun and Yang Yang, were delivered safely by UPS from Beijing, China to their new home at Zoo Atlanta after a 17-hour global journey.

Zoo Atlanta Director Dr. Terry Maple ''signed'' for the special delivery during a welcoming ceremony at Atlanta's Hartsfield International Airport with more than 200 dignitaries and elementary school children looking on. The very special delivery brings to six the total number of rare giant pandas now residing in the United States.

I would like to recognize the special role that UPS has played in this long journey to bring the pandas to their new home. UPS became involved with the panda transport when Zoo Atlanta officials asked for their help in the construction and maintenance of the panda habitat. The UPS Foundation agreed to give $625,000 over five years to fund the habitat project at the zoo, and also agreed to provide all the logistical support necessary to move the pandas from Beijing to Atlanta.

The move involved over 100 UPS employees in six cities from around the world (Atlanta, Louisville, Anchorage, Singapore, Hong Kong and Beijing) covering travels of 7,526 miles. There were backup flight crews and a backup aircraft in place in case of health problems or mechanical failures, customs support people to smooth the process of bringing the animals onto U.S. soil, and even a UPS manager to accompany the two-person flight crew and act as load master.

UPS also flew two Chinese and one American veterinarians from Beijing to Atlanta. The animals were unloaded by UPS air gateway employees and placed in UPS package cars (the familiar brown delivery truck) that were specially marked with panda graphics. The vehicles (four trucks, two as back ups in case of mechanical problems) were driven by specially chosen Circle of Honor members, UPS drivers who have driven for 25 years or more without an accident. The package cars were outfitted with air conditioning and heating units for the animals.

This exciting new addition to the Atlanta landscape would not have been possible without the hard work, dedication and financial support of many people, especially at Zoo Atlanta and UPS. I am thrilled that Atlanta will be a part of such an important exchange and friendship endeavor with the people of China and I am proud of the support and enthusiasm that have showered Lun Lun and Yang Yang throughout their journey and now that they are in their new home.●

WAYNE COUNTY MEDICAL SOCIETY 150TH ANNIVERSARY

● Mr. ABRAHAM. Mr. President, I rise today to honor and congratulate the Wayne County Medical Society as they gather in celebration of their 150th Anniversary.

The Wayne County Medical Society has set a pioneering tradition in health care since it was founded on April 14, 1849. They began with only 50 physicians and have grown to include more than 4,200 physicians. They work together to promote unity and loyalty among physicians in the community and to raise awareness of public health issues concerning the citizens of Wayne County.

What is truly remarkable about this select group is the profound impact they have had on the public health of the people in Detroit and Wayne County. One of its most notable accomplishments was leading a polio immunization drive which vaccinated thousands of Detroiters and all but eliminated the threat of the crippling disease.

The WCMS continues to provide health care that shows no bounds with the free medical and dental clinic they run at the Webber School in Detroit. Every child is offered free services such as physical examinations, dental fluoride sealants and prophylaxis. The WCMS also takes a proactive approach to health care, in 1998 they sponsored a teen pregnancy conference with more than 500 Detroit Public School students in attendance. The children were encouraged to abstain from sex and to understand the consequences of not practicing safe sex. By sponsoring an annual party for foster children in Wayne the WCMS shows their commitment to the community extends beyond healthcare. The WCMS is truly an asset to the Detroit Community.

The accomplishments this elite group has made in the past 150 years are to be commended. Guided by the spirit of charity the WCMS has improved and enriched the lives of countless people. It is my hope that they will continue encouraging unity among physicians and be a crusader for public health in Detroit for many years to come.●

IN RECOGNITION OF THE REV. DR. GEORGE ELIAS MEETZE

● Mr. HOLLINGS. Mr. President, I rise today to recognize my good friend, the Reverend Dr. George Elias Meetze, who was recently named Pastor Emeritus of Incarnation Lutheran Church in Columbia, South Carolina.

Dr. Meetze has been serving the South Carolina community for over sixty years. He led the congregation at

St. Barnabas Lutheran Church in Charleston, SC from 1934 to 1937, at Grace Lutheran Church in Prosperity, SC from 1937 to 1942 and at Incarnation Lutheran Church from 1942 to 1974. In addition, Dr. George Meetze has been the chaplain of the South Carolina Senate for fifty years.

His honors and affiliations are too numerous to list, but include leadership positions within the Lutheran Church and involvement with such organizations as the Salvation Army, The American Cancer Society, and The Rotary Club, which named him a Paul Harris Fellow in 1979. He is, as you would imagine, an active supporter of the Lutheran Theological Southern Seminary in Columbia, SC and Newberry College in Newberry, SC. A fixture in the Columbia, SC community and across the state of South Carolina, Dr. George Meetze knows many people, but is known by even more for his friendliness and genuine interest in every individual he meets.

My wife, Peatsy, and I, whom Dr. George Meetze joined in marriage twenty-eight years ago, commend Incarnation Lutheran Church for conferring the title of Pastor Emeritus on Dr. George Meetze and we send our warmest congratulations to George and his family on this happy occasion.●

BRIGADIER GENERAL CLAY'S RETIREMENT

● Mr. HATCH. Mr. President, I want to call the Senate's attention to the recent retirement of Air Force Brigadier General John L. Clay who is retiring after 28 years of dedicated service to our country.

General Clay, a native of Utah, joined the Air Force following his graduation from the United States Air Force Academy. He has served honorably and professionally in a variety of research and development assignments encompassing armaments, missiles and space programs.

He is renowned as a developer and manager of many space systems programs and currently serves as the Director of Space and Nuclear Deterrence in the Office of the Secretary of the Air Force for Acquisition.

His outstanding leadership, management expertise, and foresight have been the foundation for the success of major ICBM and space force improvements and the effective use of $50 billion of the defense budget.

General Clay directed the effort to replace the Minuteman missile guidance system. This vitally important accomplishment now provides the nation with a key element of our strategic deterrence capability. This was the first major modification to the Minuteman system in almost 30 years.

Additionally, he was instrumental in the comprehensive national review of our nation's space launch program, including the innovative Evolved Expendable Launch Vehicle program which has resulted in the establishment of two internationally competitive commercial families of vehicles capable of meeting government and commercial needs.

General Clay also established the Shared Early Warning System program following the September 1998 summit agreement between Presidents Clinton and Yeltsin. This program is a milestone in strategic partnerships as it allows the United States and partner countries to share early warning data. It also establishes a first-ever Center for Strategic Stability in Colorado Springs for the upcoming Y2K changeover. This Center will provide launch information to a jointly manned U.S.-Russian operations team during the Y2K rollover period.

Unquestionably, Brigadier General John L. Clay is a man of unwavering loyalty and dedication. He has earned the respect of his colleagues in the Air Force, defense contractors, and members of Congress.

On behalf of the Senate, I am pleased to convey to General Clay, my fellow Utahns, and his wife, Beverly, our best wishes on the occasion of his retirement and express our appreciation for his service to our country. We wish them well as they embark on this new chapter in their lives.●

MAYOR FRANCIS H. DUEHAY OF CAMBRIDGE

● Mr. KENNEDY. Mr. President, it is an honor to take this opportunity to recognize a leader who has given so much to the people of Cambridge, Massachusetts. Mayor Francis H. Duehay has been an elected official in the City of Cambridge for thirty-six consecutive years. Under his leadership, the city has made great progress in housing, welfare, youth employment, and many other important issues for the people. This year, Frank is retiring, and his loss will be felt deeply by all those whose lives he has touched.

Frank's commitment to public service is extraordinary. Throughout his years as Mayor, City Councilor, and on the School Committee he has taken pride in his commitment to work directly with the people he represents, in order to learn their concerns firsthand. Frank's work with city officials and numerous other organizations to open new lines of communication between the city government and the people of Cambridge has created a local government at its best—responsive to the needs of the people, accountable for its actions, and always open to new ideas.

Frank worked tirelessly to improve the quality of life for Cambridge families. He served as the chairperson for the Cambridge Kids' Council, where he's worked to create greater opportunities in the community, giving hope to children and families and providing a model for cities throughout the state. The Mayor's Summer Youth Employment Program has been extremely successful in giving young men and women the opportunity to serve their city during the summer months, enabling them to explore their interests and enhance their lives. Frank has fought hard for the families of Cambridge, and his legacy will live on through their success.

In all of these and many other ways, Frank Duehay has served the people of Cambridge with great distinction. I am honored to pay tribute to this remarkable leader. His public service and generosity are shining examples to us all. I know that I speak for all of the people of Cambridge when I say thank you, Frank, for your commitment and dedication to public service. You will be deeply missed.●

MICHIGAN TEACHER OF THE YEAR MARGARET HOLTSCHLAG TRIBUTE

● Mr. ABRAHAM. Mr. President, I rise today to recognize and congratulate Margaret Holtschlag on receiving the Michigan Teacher of the Year award given by the Michigan Department of Education.

Mrs. Holtschlag, a fourth grade teacher at Murphy Elementary School in the Haslet School District, was selected from nearly thirty regional finalists as the Michigan Teacher of the Year. Described by colleagues as an innovative, thoughtful and progressive teacher, her dedication is second to none. As the winning teacher, Mrs. Holtschlag will share her expertise as she travels across the state working with teachers to improve programs and teacher quality.

What is truly remarkable about Mrs. Holtschlag is that her classroom extends beyond a room filled with desks and chalkboards. Two years ago she took a group of students on a trip to Korea and set up an Internet pen-pal link between Haslet, China and Korea. In the past, her students have built weather stations and explored nearby wetlands. Additionally, her students have spent time at the Michigan Library and Historical Center, discovering and exploring aspects of Michigan history that can not be learned from a text book.

For twenty-one years Mrs. Holtschlag has devoted her life to teaching and making a positive impact on each and every student she encounters. Her captivating teaching style inspires both students and colleagues alike. This is truly a rare gift.

A quality education is one of the most important tools that a child needs and it gives me great joy to know that such a dynamic and caring teacher is helping to shape the lives of Michigan students.●

NICHOLAS W. ALLARD ON THE COLLEGE APPLICATION PROCESS

● Mr. KENNEDY. Mr. President, families across the country know that a college education is essential for their children. A college graduate earns twice what a high school graduate earns in a year, and close to three

times what a high school dropout earns. More and more students are applying for college each year—over 2 million freshmen began college last year. The result is increasingly heavy pressures on schools, families, and colleges.

No one understands these pressures more than prospective college students and their families who are now filling out applications, visiting college campuses, and preparing to make the all-important choices for their futures.

An article by Nicholas W. Allard, in the Washington Post last week, provides excellent common sense advice to prospective students and their families about the college application process. Mr. Allard, whom many of us recall from his years as a staff member of the Senate Judiciary Committee, has had extensive experience in interviewing college applicants. I believe his article will be of interest to all of us in the Senate, and I ask that it be printed in the RECORD.

The article follows.

[From the Washington Post, Nov. 9, 1999]

NAVIGATING THE COLLEGE ADMISSIONS PROCESS

(By Nicholas W. Allard, Associated Press)

A friend who is intelligent, high educated, and a wonderful parent recently called me in a meltdown panic over whether to give white or manila envelopes to their teenager's teachers for college recommendations.

My anxious friend has lots of company. Every year this is the season when tree leaves turn color and drop, while common sense about college admissions heads south. Aside from the uselessness of self-inflicted pressure, important decisions by college prospects are often based on inadequate information and worse advice. So I can't resist offering some food for thought.

APPLY TO THE COLLEGES YOU WANT TO ATTEND

Pretty basic, huh? Yet how many times have you heard advice such as: ''You need some 'reach' schools.'' Or ''Where's your 'safety' school?'' In other words, you're often encouraged to think about schools in a way that ranks their desirability according to the difficulty of being admitted. This approach will make you feel like you are ''settling'' if you decide to attend anywhere but one of the most selective schools.

According to Peterson's Annual Survey of Undergraduate Institutions, in the United States there are almost 2,000 accredited, public and private four-year colleges and universities. They vary tremendously.

Find a handful or so of colleges out of this very large number you would be enthusiastic about attending. Then, once you've got your working list together, turn to the issue of how to be admitted to your favorite schools.

THE EARLY APPLICATION PROGRAM

In you're considering participating in an early application program because you are very, very sure that a college is your top choice, then go ahead. If you're not sure, then don't do it. Think about it. What if you succeed and are admitted to a place that you are not sure is your first choice?

If the early acceptance is nonbinding, you're going to apply elsewhere anyway. If it is binding, then you are stuck. You are not going to find any college that will tell you it's relatively easy to be admitted at the early stage. But you'll tell me you are worried that some colleges admit so many students early that there seem to be very few places left if you wait.

Keep your head. Those people who are so well qualified that colleges are sure they want to offer them a binding offer at the early stage are taken out of the pool of applicants. They are not filing multiple applications to schools that may interest you. You even may appear to be a relatively stronger candidate in the remaining pool come spring, especially after your strong academic performance this fall.

And, remember, many, if not most, college applicants are not accepted at the early stage. Are you sure that you want to go through the angst of applying to college for the first time, and then suddenly finding, without any counter-balancing good news, that your hopes have been dashed and you must apply in earnest to several other colleges?

YOU AND YOUR GUIDANCE COUNSELOR

Your job is to learn enough about yourself and about colleges to think clearly about where you would want to attend, and then for you (not your parents) to take the lead applying for admission.

Many high school college advisers act as if their job is to make sure that you and all your classmates have been admitted somewhere, anywhere. Also, understandably, they are concerned about managing the bureaucratic demands of processing a large volume of college applications.

It's not necessarily a bad thing if your list of favorite colleges makes counselors nervous. Maybe they'll pay a little more attention to your file. The best high school counselors help you match your preferences with colleges. They also can assist your campaign to be admitted where you want to go. That takes a lot of time and dedication.

MAKE THE PROCESS FUN

Think about what it's going to be like to be on your own and to live, study and goof off in a new place, meeting new people. Take advantage of the need to pause, to make a detailed report about what you've accomplished in this first part of your life. In this way the college application can be more than a chore. It can be a satisfying inventory of positives and promote honest self-evaluation of how you want to grow or change or improve.

The application process doesn't have to be nerve-racking. If you only apply to schools that really turn you on, then you really don't have to worry about being accepted to the wrong place.

In the unlikely event that you do not gain acceptance to any of your favorite schools, maybe you should take another year and do something that interests you or prepare yourself to reapply to colleges after spending some time better equipping yourself for college.

The dirty little secret is that there simply is no single school that will make or break your future.

BE A 'SMART SHOPPER'

You are in the market for one of the most expensive, most valuable things you will ever acquire; a college education.

Have you talked to people who have recently attended the colleges that you are considering? What have you read about the colleges? Have you visited colleges that you are seriously considering, alone, without your family?

The traditional family summer tour of colleges is a nice starting point and often can be very helpful in eliminating college choices. But in terms of getting a good feel for what it's like to be a student on campus during a term, there is only so much you can learn by staring at bricks and mortar from the outside of empty buildings, while trying to act as if you are not actually part of your family encourage—how embarrassing.

Thump the melon, test-drive the car, try to get, on your own, to the few colleges that most interest you. Bring a sleeping bag, arrange to stay, if you can, in the dorm room of a friend or somebody who graduated from your home area high schools. Attend class, find out how bad the food is in the dining hall, attend an athletic event or concert, go read, in the library and work on some homework in the midst of other students doing the same thing.

If you're already in your senior year and haven't done this, it's not too late. And, of course, after you are accepted at a college you certainly have the opportunity to visit before you make your decision.

BE YOURSELF

When you're applying to college you certainly want to put your best foot forward and present an accurate and compelling case for admission. But above all things, remember to be yourself.

Suppose, if by some miracle, you actually were able to gussy up your application and essays to come across as a different person or convincingly act out a role in an interview. Would the college be accepting the wrong person? More practically, it just often doesn't work to try to be someone else. Phoniness is difficult to maintain, and in most cases it's transparent.

This also means that the application form that you complete should be your own work. Relax; take the task seriously; do the best job you can and don't forget: Parents, teachers and consultants who have too large a hand in preparing applications leave very visible fingerprints.

THE INTERVIEW PROCESS

Colleges generally do not require interviews, but, if available, they provide an opportunity to learn more about a school and to supplement your written application.

If you have an interview with an alumni volunteer, remember they are not decision makers. Their task is to collect information and pass it on. They can be very good or very bad. Count on this: Whatever they report to their alma maters will be taken with a full shaker of salt. Their views will not outweigh the record you have built over time, the evaluations of professional teachers who have seen you in a class context or your own words on your application.

Still, alumni interviews can help uncover or reinforce strengths and corroborate the profile that appears on the written application file. Again, be yourself, and be prepared for a variation of the inevitable final interview question: ''Is there anything else you would like to ask me?''

Also, if you're wondering about what to wear to an interview, the acceptable range of attire is very broad. On matters of dress, and all such questions about your application, let your own good judgment be your guide.

DON'T WORRY ABOUT OTHER APPLICANTS

It is simply not true that somebody else in your school or your neighborhood is competing with you for a spot that they might take away your space at a college that you want to attend.

At the very most selective colleges you are not competing against the person sitting next to you in a classroom, you'r competing against the national pool of applicants.

In colleges that are less selective, if you make a compelling case that satisfies its requirements, you have a very good chance of being accepted. Your case for acceptance is not diminished, it is not less compelling if other qualified candidates in your community are accepted.

In any event, know that any information you have about other candidates for acceptance is suspect: What somebody's board

scores supposedly are or are not; whether or not a particular college has a quota for your high school; what a college has supposedly communicated to a candidate; what athletes have been told; whether students with learning disabilities get a fair shake—it's all unreliable.

None of it helps you make your case and it will get your stomach juices roiling if you pay attention to such gossip.

Have confidence in yourself. Focus on what you can do something about, which is your own application and at the end of the day things will work out just fine. Be happy if people you know also are accepted to a college of your choice. You'll already know people to embrace or avoid when you get to campus in the fall.

MAKING YOUR DECISION

Don't torture yourself about the choice you make. Remember, you've carefully compiled a list of schools that make sense for you. Be liberated in the idea that you can't make a wrong decision.

Attending college is expensive. Whether or not you receive scholarships, take out loans, or get a part-time job, it's likely your college education is going to cost a lot. Talk this over with your family and determine your realistic options.

In the end, after you carefully weigh the different factors that are important to you, it's probably going to come down to a gut reaction. Trust your own instincts. Make up your mind and then get excited about it. Also make sure to thank your parents, other family members, teachers and advisers.

AND, FINALLY

I'm not a professional admissions officer or an educator. I don't know any particulars about you or your situation. I just suggest you think about the questions raised.

Don't let hopes about college become a black cloud over the best year of high school.

Oh, either white or manila envelopes are fine, but don't forget the postage.●

COMMENDING PAULA DUGGAN

● Mr. JEFFORDS. Mr. President, I would like to commend Paula Duggan who is retiring after 13 years as a senior policy analyst at the Northeast-Midwest Institute. She has been instrumental on a variety of labor market, education, and fiscal federalism issues.

Paula, for instance, was the key force behind labor market information provisions within the Workforce Preparedness Act, and she has worked diligently to ensure that the law is well implemented. She was one of the first analysts to make the connection between worker education and business productivity. And she has written numerous reports explaining how federal allocation formulas are structured and how federal funds are distributed among the states.

I have benefitted from Paula's expertise and experience in my capacities as chairman of the Health, Education, Labor, and Pensions Committee and as co-chair of the Northeast-Midwest Senate Coalition. Paula consistently has provided unbiased and insightful research that has advanced bipartisan efforts on behalf of this region and the nation. As she begins her well-earned retirement, Mr. President, I again want to thank Paula Duggan for her fine work.●

TRIBUTE TO MR. BOBBY BOSS

● Mr. CLELAND. Mr. President, I rise today to recognize a great American institution and its leader. The American Legion Barrett-Davis-Watson Post #233 is located in a small Georgia town called Loganville and it is commanded by a true patriot in every sense of the word—Mr. Bobby Boss. For over 50 years this man's leadership has allowed the post to continue offering community services that any American would be proud of.

Post #233 held its first meeting on November 19, 1946 with the Legion's standard program of the day: patriotism, rehabilitation, community service, community welfare and membership. Less than ten years after its inception, the Post responded to the town of Loganville's need for a medical doctor by building a clinic. The Post later donated a truck and tractor to the city.

Over the past 40 years, the Post has continued to make numerous donations to the community, including an annual $1,500 donation to the town's elementary school to help purchase shoes and clothes for the needy and a $12,000 donation for dropout prevention programs in all Walton County Schools.

Tragedy struck the Post in 1977 when a fire all but destroyed the Post building, leaving nothing but ashes and concrete. At the first monthly meeting after the fire, a majority of the members present chose not to rebuild, but Commander Boss was not in that majority. Two weeks after that meeting, he took his own bulldozer and cleared the charred remains. His efforts resulted in the fine building the Post uses today.

Once the Post was back on its feet, many of the programs that had fallen by the wayside due to rebuilding costs were reinstated. In the past 10 years alone, Post #233 has supported renovation projects for the city of Loganville and donated $8,000 towards the purchase of computers for the local high school; donated half the costs of building a baseball field complete with lights, restrooms and a concession stand. Post #233 has also contributed funds to help the local Sheriff's department purchase camera equipment for patrol cars. This Christmas season, members of Post #233 will prepare and deliver more than one thousand baskets for widows, the disabled and needy families.

The good work of Post #233 represents all that is noble in our great nation. I applaud their community service and their patriotism. They are an asset to their community, the great state of Georgia and the United States of America.●

HENRI TERMEER PRESENTED WITH THE INTERNATIONAL INSTITUTE OF BOSTON'S GOLDEN DOOR AWARD

● Mr. KENNEDY. Mr. President, I am honored to have this opportunity to congratulate Henri Termeer on receiving the Golden Door Award from the International Institute of Boston. I also congratulate Henri for recently being sworn in as a United States citizen during a ceremony on October 29.

As chairman, chief executive officer and president of Genzyme Corporation, one of the largest biotechnology companies in the world, Henri is renowned as a pioneer in the industry. He serves on the board of directors of both the Biotechnology Industry Organization, the industry's national trade association, and the Pharmaceutical Research and Manufacturers of America, a national pharmaceutical trade organization.

It is very fitting, indeed, that Henri was honored with the Golden Door Award, which is presented to US citizens of foreign birth who have made outstanding contributions to American society. Henri is a native of the Netherlands, and in recent years he has received numerous honors such as the Anti-Defamation League's Torch of Liberty Award and the Governor's New American Appreciation Award. He was also recently inducted as a fellow of the American Academy of Arts and Sciences.

Throughout his career in biotechnology, Henri has been a strong advocate for the responsibility of industry and government to make life-saving drug treatments available to all people in need, regardless of their economic status or geographic location. Under Henri's leadership, Genzyme has worked diligently over the years to make this vision a reality.

In addition to his commitment to patients, Henri is also a leader in promoting educational opportunities for minorities. Since 1995, he has been a director of the Biomedical Science Careers Project, which provides corporate scholarships to academically outstanding minority high school students. In May 1999, the group presented Henri with highest honor, the Hope Award.

Henri's extensive record of public service includes his role as a director of the Massachusetts Cystic Fibrosis Foundation, as a trustee and vice-chairman of the Boston Museum of Science, and as a member of the Massachusetts Council on Economic Growth and Technology.

In receiving the Golden Door award, Henri joins a distinguished list of previous recipients including Arthur Fiedler, the famed former conductor of the Boston Pops; Jean Mayer, the eminent nutritionist, educator, and former president of Tufts University; and An Wang, the founder of Wang Labs.

I commend Henri Termeer for this well-deserved award, and for his new American citizenship. Massachusetts is proud of him, and I congratulate him for his many impressive contributions to our Nation.●

DEATH ON THE HIGH SEAS ACT

• Mr. MCCAIN. Mr. President, most unfortunately it appears unlikely that House and Senate conferees will be able to reach agreement this year on a multi-year bill to reauthorize the Federal Aviation Administration. I am bitterly disappointed at Congress' inability to act on this legislation because of a number of parliamentary budget fights that ignore the dire need to pass this bill. Yet one of my most prominent disappointments is the likelihood that Congress' efforts to amend the Death on the High Seas Act will fall by the wayside in the short term. We will be forced to postpone out efforts to make damage recovery fair for all family members of aviation accident victims who have died.

The Death on the High Seas Act is a 1920's-era law that was put in place to help compensate the wives of sailors who died at sea. The law allows survivors to recover pecuniary damages, or the lost wages of their relatives on whom they depended upon financially. Unlike modern tort law, the Death on the High Seas Act does not allow family members to recover for non-monetary damages, such as for pain and suffering, or to seek punitive damages.

Despite its benevolent inception, the Death on the High Seas Act has been used to limit the recovery of damages among the families of airline passengers whose lives have been lost over international waters. The family members of those who died on TWA Flight 800 and EgyptAir Flight 990, for instance, will not be able to seek the same compensation that they would be entitled to if these accidents had occurred over land. The parents of children killed in these accidents cannot sustain a legal claim for damages, since they did not depend upon their children as the family breadwinners. That is an inequity and an unintended consequence that we need to fix.

As I said earlier, Congress intended to fix these problems in the context of the FAA reauthorization bill, yet negotiations have stalled for unrelated reasons. Consequently, I want to pledge every effort to move Death on the High Seas Act legislation independently, as soon as possible next year.

The Commerce Committee will hold additional hearings on this issue as soon as Congress reconvenes in 2000. I will take the lead in working with my colleagues to ensure that legislation to limit the application of the Death on the High Seas Act to aviation accidents moves as quickly as possible through Congress. I believe it enjoys enormous support within Congress. At the very least, it should not be bogged down in unrelated controversies.

The families of aviation accident victims over international waters have waited far too long for Congress to make sure that their losses are accorded the same respect as those associated with accidents over land. Family members should know that their children have value in the eyes of the law. The recent aviation tragedies only highlight the need for prompt action.•

IMMIGRATION ESSAY CONTEST

• Mr. KENNEDY. Mr. President, each year, the American Immigration Law Foundation and the American Immigration Lawyers Association sponsor a national writing contest on immigration. Thousands of fifth grade students across the country participate in the competition, answering the question, ''Why I'm Glad America is a Nation of Immigrants.''

In fact, ''A Nation of Immigrants'' was the title of a book that my brother President Kennedy wrote in 1958 at a time when he was a Senator. All his life, he took pride in America's great heritage and history of immigration.

As one of the judges of this year's contest, I was immensely impressed with the quality of the students' writing and the pride of the students in America's immigrant heritage. Many of the students told the story of their own family's immigration to the United States.

The winner of this year's contest is Crystal Uvalle, a fifth grader from Pennsylvania. She wrote about her father's immigrant background and how he came to America 20 years ago. Other students honored for the high quality of their essays were Leif Holmstrand and Eugene Yakubov of Chicago, Samantha Huber of Fredonia, Wisconsin, Alexa Lash of Miami, and Daniel Rocha of Media, Pennsylvania.

Mr. President, I believe these award winning essays from the ''Celebrate America'' essay contest will be of interest to all of us in the Senate, and I ask that they be printed in the RECORD.

The essays follow:

WHY I AM GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Crystal Uvalle, Grand Prize Winner)

It was about 20 years ago,
A man come here from Mexico.
He sought a better way to live,
And found he had a lot to give.
He didn't speak a word of English,
So he took a job busing dishes.
To learn his new country's ways,
He worked and studied everyday.
He made Dallas his new home,
And before he knew it he was in the know.
He worked his way up in that restaurant,
And a lady there, his eye she caught.
She was a native of another state,
And he asked her out on a date.
She liked pierogies and roast beef,
He liked tamales and spicy meat.
It didn't take long, they were in love,
Then God sent them a baby from heaven above.
I'm so happy for them you see,
That man and woman and I make three.
I'm so happy America let him in,
He's my father and my friend.
I love you Daddy!

AMERICA, AMERICA—THEY CAME TO BE FREE

(By Leif Holmstrand, Chicago, Illinois)

I dedicate this song to my Farfar (father's father), who came to America from Sweden In 1920. His boat arrived in New York, at Ellis Island, where he spent some time. He told my father stories about his trip: friends dying of tuberculosis, lice, over crowding. He went to Nebraska to try farming, but finally settled in Chicago, where he was a fine painter and woodworker.

America, the land of the free;
The immigrants made it strong with their diversity
First, from England, came the Pilgrims, to worship as they pleased,
Next came the Germans, Irish, the French, the Swedes.
The Finns, the Danes, the Polish and Portuguese,
The Welsh, the Dutch, the Scots and the Chinese
America, America, they came to be free,
The immigrants made it strong with their diversity
As indentured servants looking for opportunity,
Stolen from West Africa as slaves without liberty,
They came for land, they came for gold. From tyranny,
War and famine, they fled to this country.
America, America, they came to be free;
The immigrants made it strong with their diversity.
A dangerous, relentless journey across the sea,
The immigrants landed at Ellis Island wanting to be free.
They worked in mines and factories, on farm and railroad,
Men, women, children, they carried a heavy
America, America the land of the free,
The immigrants made it strong with diversity.
The IMMIGRANTS made it what it's come to be:
The U.S.A.—proud and free
America, America, the land of the free,
The immigrants made it strong with their diversity.
Mexico, Korea, Bosnia, the Sudan
From Haiti, the Honduras, Afghanistan.
They're still coming from many other lands,
They come to America, they want this country:
America, America, from sea to shining sea,
America, America, the immigrants' country.
America, America, the land of the free.

WHY I AM GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Samantha Huber, Fredonia, Wisconsin)

Africans, coming to America on slave ships
Whipped and beaten
No choice
French, looking for gold and other treasures
Claiming land that was not up for sale
Indentured servants, looking for a new life
Finding it
America
A nation of immigrants
Spain, France, Mexico, England, Africa condensed into one
Freedom, education, equality, and justice for all
Diversity, teaching us tolerance
Variety
Differences in customs, holidays, foods, games, language, and clothing
Even ideas and thoughts differ
Everyone with a different life story
Giving us a taste of the rest of the world
I'm proud of my country
Glad to live in a nation of immigrants
Accepting and welcoming people of the world.

WHY I'M GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Alexa Lash, Miami, Florida)

I am alone

Unprotected by the evil that stands before me
I am alone
Without home or a road to freedom

I am afraid
Walking through the blackened street of fear
I am afraid
Going to a new world where my language is not spoken

I am transparent
I am seeking a place with no one to be my guide
I am transparent
People see an ugly girl

I am new
Seeing new people who can help
I am new
Going to be free

I am loved
By my friends who I will trust
I am loved
By the family I will miss

I am leaving
I am going on the ship to freedom
I am leaving
Going to a street of gold

I am crying
Saying my good byes
I am crying
From tear to dangling tear

I am forming
I am becoming a woman on my own
I am forming
I am looking to see who I really am

I am reaching
Hearing the call of an eagle
I am reaching
Getting closer to the destination I have longed for

I am observing
Seeing the ocean bloom into waves along the shore
I am observing
Seeing the sun rise and the birds chirp

I have arrived
Feeling the warmth of the sand
I have arrived
In America.

AMERICA

(By Daniel Rocha, Media, Pennsylvania)

America a land of differences
different races;
different faces,
America a land of differences.

America a land of freedom,
Immigrants come from far and near,
To taste the freedom we have here.
They come for freedom of religion,
freedom of speech,
freedom of press,
they come for freedom from dictators and laws
America a land of freedom

America a land of family,
people come from different lands,
to see their family that lives here,
America a land of family.

America a land of hope,
Immigrants who come here,
hope for freedom from unfair rules,
hope to escape their fears,
hope to stop their endless tears,
America a land of hope

America a land of people,
many people,
some have similarities,
some have differences
some have both
America a land of people.

America a land of different languages
Spanish, English,
Portuguese, Scottish
Chinese, Japanese,
many languages,
America a land of different languages

America a land of all,
America a land of difference,
America a land of freedom,
America a land of family,
America a land of hope,
America a land of people,
America a land of different languages,
America a land for all.

WHY I AM GLAD AMERICA IS A NATION OF IMMIGRANTS

(By Eugene Yakubov, Chicago, Illinois)

My family came to the United States in 1996 because life in Ukraine was getting worse and was getting worse. There were no jobs, no food, and no money.

My friends' parents didn't have jobs for two years. In America his father got a job right away. Many people left their countries even though they had to change their professions.

In Ukraine my father was a tinsmith. Now he repairs air conditioners. My mom went to ''Beauty School.''

It is great that America is a nation of immigrants because when new immigrants arrive they meet people just like them. No one laughs at their English or their misery.

On my first day of school I was afraid I didn't know English. In class I saw children from all around the world. A Russian boy helped me a lot.

In America people have to work hard because life is not easy. This is the country that is built with hard labor.

New immigrants are like new-borns in the family. They bring happiness and joy.

I am grateful to America because my parents could find a job, and I may go to school where teachers don't faint because they are hungry.

Once President Kennedy addressed his fellow Americans. I address my fellow immigrants. Don't ask what America can do for you ask what you can do for America, a Promised Land for many of us.

EXECUTIVE CALENDAR

EXECUTIVE SESSION

Mr. SESSIONS. 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: No. 271 and No. 274. Further, I ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, that any statements relating to the nominations be printed in the RECORD, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed as follows:

THE JUDICIARY

Ronald M. Gould, of Washington, to be United States Circuit Judge for the Ninth Circuit.

THE JUDICIARY

Barbara M. Lynn, of Texas, to be United States District Judge for the Northern District of Texas.

Mr. GORTON. Mr. President, I am pleased to support the confirmation of Ronald Gould to the Ninth Circuit Court of Appeals.

Since 1975, Ron has practiced law at the Seattle law firm of Perkins Coie, specializing in commercial litigation, and the numerous letters of support and recommendation that I have received throughout this long process attest to the high regard in which he is held by the legal community in Washington state.

Ron's admirable professional and academic record, however, while alone enough to qualify him for the federal bench, is only a small part of what will make him an asset to the Ninth Circuit. While distinguishing himself professionally, Ron has actively participated in volunteer legal, civic, and community organizations and projects too numerous to recite in full.

In addition to being a former President of the Washington State Bar Association, Ron Gould has served on the historical societies for the Supreme Court and the Ninth Circuit Court of Appeals, has co-chaired, with Washington state Attorney General Christine Gregoire, a project to develop mediation in high schools, and has been a member of Washington Women Lawyers, and the Washington Association of Lawyers with Disabilities.

Among the many non-legal, civic organizations in which Ron has been involved is the Boyscouts of America, for which Ron has served on the Executive Board of the Chief Seattle Council since 1984.

Ron's legal and life experience has been extraordinary. So extraordinary that I am pleased to vote to confirm him to one of the positions of highest honor and responsibility in this country.

Mrs. MURRAY. Mr. President, I rise this evening in very strong support of my friend Ronald Gould's confirmation to the U.S. Court of Appeals for the Ninth Circuit. This has been a long hard-fought battle and I commend him for his patience, perseverance, and persistence. We made it, Ron. Congratulations!

Let me share with my colleagues some of the special things about Ronald Gould that make him a person I was proud to recommend to the President for a seat on the Federal bench. He has personally supported me in my political career and helped others to believe in me. Ron is an excellent lawyer, a strong advocate for the legal profession, a community booster, a dedicated family man, a Distinguished Eagle Scout, and a man who has overcome much in his personal life to continue to be all of these things. I am honored to have been a part of his journey to the Federal bench.

I would like to highlight some of Mr. Gould's personal history. He married his wife Suzanne more than 30 years ago, and they have two children. their 23-year-old son Daniel, who is also an Eagle Scout, is a jazz saxophone performer and technology student who recently graduated from Stanford University and founded his own Internet

startup business. Their 20-year-old daughter Rebecca is a sophomore at Hampshire College in Amherst, MA. Rebecca was selected for the Seattle ''High School Hall of Fame'' for her courage in conquering challenges following an auto accident in which she was seriously injured.

Mr. Gould also has been supported in this and all other endeavors of his life by his mother, Sylvia Gould. She is an active 81-year old walker and swimmer who justifiably takes some credit for her son's accomplishments since she encouraged him to do well in school and succeed as a Boy Scout.

Mr. Gould graduated the Wharton School of Business and Commerce at the University of Pennsylvania with a B.S. in economics. He received his J.D. degree in May 1973, graduating magna cum laude from the University of Michigan Law School where he won academic awards and served as editor-in-chief of the Michigan Law Review. During law school he received the Abram Sempliner Memorial Award for legal excellence, the Henry Bates Memorial Scholarship, and the Order of the Coif.

After law school, Mr. Gould served as a law clerk for Judge Wade McCree on the U.S. Court of Appeals for the Sixth Circuit. He next served as a law clerk for Justice Potter Stewart at the U.S. Supreme Court during the 1974 term.

Since December 1975, Mr. Gould has practiced law as an associate and then as a partner with Seattle's largest firm, Perkins Coie. He has had a varied civil litigation practice, including litigation in antitrust, banking, director and officer liability, and trade secrets. Mr. Gould is highly respected in his field and has worked for many of our region's most influential companies and constituencies.

Mr. Gould's fellow lawyers in the King County Bar Association honored him with the 1987 Award for Distinguished Service to the Legal Profession and Public. He was elected to the Board of Governors of the Washington State Bar Association for 1988–91 and served as President of the Washington State Bar Association for its 1994–95 term. Also, as President-Elect and as President of the Washington State Bar Association, Ron co-founded with Washington State Attorney General Christine Gregoire a project to implement mediation in Washington State high schools to prevent youth violence. This program teaches young people how to avoid the kind of tragedies our nation has seen too much of in recent years.

Mr. Gould shares my commitment to public education. He has served Bellevue Community College as a trustee from 1993 to the present and was elected chair of the Board of Trustees in 1996.

In addition, Mr. Gould has served as a member of several legal delegations under the People to People Citizen Ambassador Program, founded by President Eisenhower and supported by Presidents since as a means of enhancing international personal diplomacy and goodwill. He has participated in legal delegations to eastern Asia, Tokyo, and Eastern Europe.

Mr. Gould's long and consistent leadership service to the Boy Scouts has been well-recognized. He became an Eagle Scout in 1962. He serves on the executive board of the Chief Seattle Council of Boy Scouts of America, which serves over 40,000 youth and participating adult leaders. Mr. Gould has served as vice president for Programs, vice president for Exploring, vice president for Special Events and chair of the Jamboree Committee. In 1995, he received the Silver Beaver Award for Chief Seattle Council, the highest award given to volunteer leaders. In 1998, he received from Boy Scouts of America the Distinguished Eagle Scout Award, reflecting decades of service to scouting and his profession.

Mr. President, I commend my colleagues for their decision to support Mr. Gould's confirmation unanimously. Again, I am proud of Ron and look forward to seeing him serve justice as a circuit court judge. I have no doubt he will carry his commitment to the profession and to the larger community to the federal bench and be one of our outstanding Ninth Circuit judges.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

Mr. SESSIONS. Mr. President, the two nominees who have been confirmed, Ronald Gould for the Ninth Circuit Court of Appeals, and Barbara Lynn, U.S. district judge for the Northern District of Texas, have indeed received august, important lifetime appointments. Federal judgeships are great offices. The persons who receive them are committed to a lifetime of dedication to law. They must conduct themselves with the highest degree of professionalism and integrity. We believe both of those nominees will meet that standard. I am pleased this could be concluded tonight.

With regard to Mr. Gould, I want to share these thoughts. He is a most capable man who has overcome personal adversity to reach the position to which he has been confirmed this evening. He has achieved a reputation as an excellent lawyer and as a person who is respected throughout his area of the country, for both his legal skills, and for his commitment to voluntarism within his community, as evidenced by his continuing service with the Boy Scouts of America. I am proud for him tonight. However, I have supported his nomination with some concern, not because of anything he has done, but because of my concern about the Ninth Circuit Court of Appeals.

Over the past 20 years, the Ninth Circuit has established a reputation as an extremely activist circuit. It is a large and important circuit, covering over 20 percent of the American population, and I believe that it is a circuit that we have a responsibility in this body to do something about. A couple of years ago, 28 cases from this Circuit were reviewed by the Supreme Court; 27 were reversed. Over the last several years, the Ninth Circuit has had by far the highest reversal rate of any circuit in the country. They have been an extremely liberal, activist circuit that has consistently gone too far in protecting the rights of criminals, and is far too quick to find that legislative acts or referendums have violated the Constitution. That is a fact without dispute by many legal scholars in this country. Indeed, the New York Times recently wrote that a majority of the U.S. Supreme Court considers the Ninth Circuit to be a rogue circuit.

My sole concern about Mr. Gould's nomination is that I don't believe his appointment and confirmation, by itself, will cause any significant movement of that circuit back to the mainstream of American law. We want to confirm the nominees the President gives the Senate when they are men and women of demonstrated integrity and ability, and when their records and backgrounds indicate that they have the ability to adhere to the law, to follow Supreme Court rulings, to follow the Constitution, to follow laws passed by the people through their elected representatives, and to recognize that it is not their function as judges to make law.

I have concluded that Mr. Gould's confirmation should go forward today because I think he has demonstrated that he recognizes his proper role as a federal judge, and I have not held up his nomination, as any Senator would have a right to do. However, there are other nominees pending for this circuit who I believe have a record of activism that, in my view, does not warrant their confirmation, particularly to a circuit that is already known to be an activist circuit.

I wanted to share those remarks because I wanted to state for the record that this Senate has been very cooperative with the President's desire to get his nominations confirmed, as evidenced by the fact that there have been over 325 Federal judges nominated to this body and confirmed. Only one judge has been rejected, and very few have been held up for any length of time. Those that have been held up are the judges with whom many Senators have some serious concerns. Most judges, however, are moving along in a prompt and efficient manner.

Comments and complaints to the contrary notwithstanding, this Senate has a constitutional duty to advise and consent with the President on any nomination to the Federal courts, and we have a duty and a responsibility to make sure that each and every circuit judge in this country understands what the supreme law of the land is, and that circuit judges should respect the prerogatives of the people through

their elected representatives to pass laws which the judges are required to enforce, whether the judges personally like them or not. We need to make sure our circuits, and every Federal judge we see, are consistent with that view and follow that script.

Mr. Gould is a capable attorney, an Eagle Scout, and a man of great personal integrity, it appears. He will soon assume a position on the U.S. Circuit Court for the Ninth Circuit. It is a great honor, and I congratulate him for it.

ORDERS FOR THURSDAY, NOVEMBER 18, 1999

Mr. SESSIONS. On behalf of the majority leader, I ask unanimous consent when the Senate completes its business today, it adjourn until the hour of 11 a.m. on Thursday, November 18. I further ask consent that on Thursday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for 1 hour, with Senators speaking for up to 5 minutes each, with the following exceptions: Senator VOINOVICH or his designee, 11 to 11:30; Senator DURBIN or his designee, 11:30 to 12 noon.

The PRESIDING OFFICER (Mr. BROWNBACK). Without objection, it is so ordered.

PROGRAM

Mr. SESSIONS. For the information of all Senators, at 11 a.m. on Thursday, the Senate will begin a period of morning business until 12 noon. Following morning business, it is expected that the Senate will begin work on measures regarding the appropriations process. Final agreements are being made, and it is hoped final action on the appropriations measures can begin as soon as possible.

I thank my colleagues for their patience and cooperation during these final days prior to adjournment.

RECORD TO REMAIN OPEN

Mr. SESSIONS. I ask unanimous consent that the RECORD remain open until 9 p.m. in order for the majority leader to introduce a Senate bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 11 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:09 p.m., adjourned until Thursday, November 18, 1999, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate November 17, 1999:

THE JUDICIARY

RHONDA C. FIELDS, OF THE DISTRICT OF COLUMBIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF COLUMBIA, VICE STANLEY SPORKIN, RETIRED.

EXECUTIVE OFFICE OF THE PRESIDENT

KATHRYN SHAW, OF PENNSYLVANIA, TO BE A MEMBER OF THE COUNCIL OF ECONOMIC ADVISERS, VICE REBECCA M. BLANK, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate November 17, 1999:

THE JUDICIARY

RONALD M. GOULD, OF WASHINGTON, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT.

BARBARA M. LYNN, OF TEXAS, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF TEXAS.

EXTENSIONS OF REMARKS

COMPETITION IN THE U.S.-CHINA ALL-CARGO MARKET

HON. JOHN S. TANNER
OF TENNESSEE
IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. TANNER. Mr. Speaker, earlier this year, the United States and the People's Republic of China completed a new civil aviation agreement. That agreement allows for one additional air carrier from each country to serve routes between these two nations. It has recently been suggested by some that Federal Express has a ''monopoly'' in the China market and that the Department of Transportation should grant another all-cargo carrier, such as UPS, the authority to serve China as opposed to expanding passenger carrier or Federal Express' service in this market. I believe that argument is meritless.

Federal Express initially applied to DOT in early 1992 for the authority it now holds. They pioneered U.S.-China express all-cargo services by acquiring an initial allocation of only 2 flights a week, under the old, more restrictive agreement. Only two other carriers, American International Airways and Evergreen International Airlines applied at that time. No other carriers even bothered to apply.

The Department selected Evergreen to operate the route and gave Federal Express backup authority. In early 1995, Federal Express and Evergreen jointly applied to transfer the primary authority to Federal Express because of problems experienced by Evergreen in its efforts to develop the market. At that time, DOT did consider, in response to comments filed by DHL, another air express carrier, whether the award to Federal Express would create a monopoly for express services. DHL was the only carrier to offer comments during these 1995 proceedings.

In its order approving the transfer from Evergreen to Federal Express, the Department concluded that Federal Express would not have monopoly power in the market, stating: ''Moreover, in this case, we found that there are alternative means of transportation. Not only does DHL have the opportunity to use U.S. and Chinese carriers in the market, Chinese carriers on both their combination and all-cargo services and the U.S. carriers on their combination services, but there are also third country carriers in the market available for use.''

Indeed, the market is already very competitive. Due to the historic imbalance in the number of flights DOT has allocated to passenger and air cargo services, U.S. passenger carriers, Northwest and United, can offer more freight capacity than Federal Express. Furthermore, I understand that both UPS and DHL already offer a wide range of express services through their joint ventures with SINOTRANS—the government-owned China National Foreign Trade Transportation Group Corporation. DHL has represented that it controls, with the help of its joint venture relationship with SINOTRANS, 35% of the China express market and UPS operates an extensive ground network in China. In addition, the U.S. Postal Service offers U.S-China express and parcel services. There are also two Chinese airlines, and at least 18 other foreign airlines that can offer U.S.-China cargo services, including some of the world's largest airlines like British Airways, Japan Air Lines and Lufthansa.

Because of the limited number of flights that it has been allocated, Federal Express today accounts for only 11.5% of the air express volume from the U.S. to China, and 4.8% of that volume in the opposite direction. That is hardly a monopoly.

Federal Express has pioneered the development of markets throughout Asia for the benefit of U.S. exporters. It was difficult in the early stages, but Federal Express made China a high priority in the development of its Asian network. Their commitment to this market has helped ensure that U.S. companies can even expand their trade and presence in China's major markets. In many of the Asian markets, such as Hong Kong, Japan, and the Philippines, other express carriers entered the market much later to compete with Federal Express. In each of these cases, Federal Express' rates were the same before as they were after the others entered the market.

Federal Express can only operate 8 flights per week today, increasing to 10 on April 1, 2000. It currently is the only incumbent U.S. airline that lacks the frequencies necessary to offer even two daily flights. Due to its limited number of frequencies, Federal Express operates a complex but incomplete schedule in the major markets it services in China. For example, it can offer daily service to Beijing in one direction only—westbound from the U.S.—with only three eastbound flights from the capital. It operates only five flights a week to and from Shanghai, and it is able to offer only eastbound service from Shenzhen.

Trade is the key to our competitiveness and prosperity in the global marketplace. Federal Express must be able to continue to develop this market to provide U.S. exporters the transportation services they require to be competitive. Federal Express has the presence in China to make this goal a reality in the near term.

The attempt by others to justify their belated interest in this market by characterizing Federal Express as a monopoly is not supported by the facts. The U.S.-China market for air express cargo services is competitive today.

TRIBUTE TO THE REGIONAL BOARD PRESIDENTS OF THE ANTI-DEFAMATION LEAGUE

HON. HOWARD L. BERMAN
OF CALIFORNIA
HON. BRAD SHERMAN
OF CALIFORNIA
HON. HENRY A. WAXMAN
OF CALIFORNIA
IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. BERMAN. Mr. Speaker, we rise to pay tribute to the past Regional Board Presidents of the Anti-Defamation League (ADL) for their fifty years of service and leadership. These men and women have contributed their wisdom, knowledge, and dedication to the ADL and our community.

The past presidents of ADL have been at the forefront of efforts to deter and counter hate-motivated crimes. Not only has the ADL played a fundamental role in hate-crime legislation, it has organized rallies to increase public awareness of such acts. The pivotal role played by the ADL during this past year's shooting at the Jewish Community Center was a clear example of the efforts of this organization.

The Anti-Defamation League serves as a community resource for the government, media, law enforcement agencies, and the general public. Through ADL's monitoring and educational programs, public awareness of racism, extremism, bigotry, and anti-Semitism has been raised. In addition to these programs, ADL works as a liaison between Israel and U.S. policy-makers to educate the public about the complexities of the peace process. These are only a few of the accomplishments of the ADL. We applaud the current and past presidents for their invaluable service to the ADL and for their invaluable contributions to our community. These men and women are an example to us all.

The ADL's Gala Dinner Dance is certainly a very special event and we are pleased to recognize your organization for its achievements. Again, congratulations to the dedicated presidents for their many years of contributions to the cultural and social well being of our society. Please accept our very best wishes for many more years of continued success.

Mr Speaker, we ask our distinguished colleagues to please join us in honoring Harry Graham Balter, I.B. Benjamin, Jack Y. Berman, Judge David Coleman, Faith Cookler, Hon. Norman L. Epstein, Hon. Robert Feinerman, David P. Goldman, Charles Goldring, Maxwell E. Greenberg, Bruce J. Hochman, Bernard S. Kamine, Harry J. Keaton, Joshua Kheel, Moe Kudler, Alexander L. Kyman, Myra Rosenberg Litman, Hon. Stanley Mosk, George E. Moss, Hon. Irwin J. Nobron, Hon. Jack M. Newman, Hon. Marvin D. Rowen, and Barry R. Weiss for their ongoing service to the Jewish community and the community at large.

HOUSE RESOLUTION 350

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. SCHAFFER. Mr. Speaker, the House passage of H. Res. 350 advanced the firm position of the Congress in contradiction to the practice of trafficking in baby body parts for profit.

The topic, sir, is among the most ghastly imaginable. America's traditions of life and liberty are certainly challenged by procedures required to support such a barbaric trade as that addressed by the Resolution.

As further support for our efforts, I hereby, commend to the House an article delivered to me by Mrs. Kay Schrapel of Greeley, CO. Mrs. Schrapel requested I share this report with all Members and to fully honor and fulfill her humble request, I hereby submit the text of the report for the RECORD.

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THE HARVEST OF ABORTION

(By Lynn Vincent)

WARNING: This story contains some graphic detail.

As Monday morning sunshine spills across the high plains of Aurora, Colo., and a new work week begins, fresh career challenges await Ms. Ying Bei Wang. On Monday, for example, she might scalpel her way through the brain stem of an aborted 24-week-preborn child, pluck the brain from the baby's peach-sized head with forceps, and plop it into wet ice for later shipment. On Tuesday, she might carefully slice away the delicate tissue that secures a dead child's eyes in its skull, and extract them whole. Ms. Ying knows her employer's clients prefer the eyes of dead babies to be whole. One once requested to receive 4 to 10 per day.

Although she works in Aurora at an abortion clinic called the Mayfair Women's Center, Ms. Ying is employed by the Anatomic Gift Foundation (AGF), a Maryland-based nonprofit. AGF is one of at least five U.S. organizations that collect, prepare, and distribute to medical researchers fetal tissue, organs, and body parts that are the products of voluntary abortions.

When ''Kelly,'' a woman who claimed to have been an AGF ''technician'' like Ms. Ying, approached Life Dynamics in 1997, the pro-life group launched an undercover investigation. The probe unearthed grim, hard-copy evidence of the cross-country flow of baby body parts, including detailed dissection orders, a brochure touting ''the freshest tissue available,'' and price lists for whole babies and parts. One 1999 price list from a company called Opening Lines reads like a cannibal's wish list: Skin $100. Limbs (at least 2) $150. Spinal cord $325. Brain $999 (30% discount if significantly fragmented).

The evidence confirmed what pro-life bioethicists have long predicted: the nadir-bound plummet of respect for human life—and the ascendancy of death for profit.

''It's the inevitable logical progression of a society that, like Darwin, believes we came from nothing,'' notes Gene Rudd, an obstetrician and member of the Christian Medical and Dental Society's Bioethics Commission. ''When we fail to see life as sacred and ordained by God as unique, this is the reasonable conclusion . . . taking whatever's available to gratify our own self-interests and taking the weakest of the species first . . . like jackals. This is the inevitable slide down the slippery slope.''

In 1993, President Clinton freshly greased that slope. Following vigorous lobbying by patient advocacy groups, Mr. Clinton signed the National Institutes of Health (NIH) Revitalization Act, effectively lifting the ban on federally funded research involving the transplantation of fetal tissue. For medical and biotech investigators, it was as though the high government gate barring them from Research Shangri-La had finally been thrown open. Potential cures for Parkinson's, AIDS, and cancer suddenly shimmered in the middle distance. The University of Washington in Seattle opened an NIH-funded embryology laboratory that runs a round-the-clock collection service at abortion clinics. NIH itself advertised (and still advertises) its ability to ''supply tissue from normal or abnormal embryos and fetuses of desired gestational ages between 40 days and term.''

But, this being the land of opportunity, fetal-tissue entrepreneurs soon emerged to nip at NIH's well-funded heels. Anatomic Gift Foundation, Opening Lines, and at least two other companies—competition AGF representatives say they know of, but decline to name—joined the pack. Each firm formed relationships with abortion clinics. Each also furnished abortionists with literature and consent forms for use by clinic counselors in making women aware of the option to donate their babies' bodies to medical science. According to AGF executive director Brent Bardsley, aborting mothers are not approached about tissue donation until after they've signed a consent to abort.

Ironically, it is the babies themselves that are referred to as ''donors,'' as though they had some say in the matter. Such semantic red flags—and a phalanx of others—have bioethicists hotly debating the issue of fetal-tissue research: Does the use of the bodies of aborted children for medical research amount to further exploitation of those who are already victims? Will the existence of fetal-tissue donation programs persuade more mothers that abortion is an acceptable, even altruistic, option? Since abortion is legal and the human bodies are destined to be discarded anyway, does it all shake out as a kind of ethical offset, mitigating the abortion holocaust with potential good?

While the ethical debate rages in air-conditioned conference rooms, material obtained by Life Dynamics points up what goes on in abortion clinic labs: the cutting up and parting out of dead children. The fate of these smallest victims is chronicled in more than 50 actual dissection orders or ''protocols'' obtained by the activist group. The protocols detail how requesting researchers want baby parts cut and shipped: ''Dissect fetal liver and thymus and occasional lymph node from fetal cadaver within 10 (minutes of death).'' ''Arms and legs not be intact.'' ''Intact brains preferred, but large pieces of brain may be usable.''

Most researchers want parts harvested from fetuses 18 to 24 weeks in utero, which means the largest babies lying in lab pans awaiting a blade would stretch 10 to 12 inches—from your wrist to your elbow. Some researchers append a subtle ''plus'' sign to the ''24,'' indicating that parts from late-term babies would be acceptable. Many stipulate ''no abnormalities,'' meaning the baby in question should have been healthy prior to having her life cut short by ''intrauterine cranial compression'' (crushing of the skull).

On one protocol dated 1991, August J. Sick of San Diego-based Invitrogen Corporation requested kidneys, hearts, lungs, livers, spleens, pancreases, skin, smooth muscle, skeletal muscle and brains from unborn babies of 15–22 seeks gestational age. Mr. Sick wanted ''5–10 samples of each per month.'' WORLD called Mr. Sick to verify that he had indeed order the parts. (He had.) When WORLD pointed out that Invitrogen's request of up to 100 samples per month would mean a lot of dead babies, Mr. Sick—sounding quite shaken—quickly aborted the interview.

Many of the dissection orders provide details of research projects in which the fetal tissue will be used. Most, in the abstract, are medically noble, with goals like conquering AIDS or creating ''surfactants,'' substances that would enable premature babies to breathe independently.

Other research applications are chilling. For example, R. Paul Johnson from Massachusetts' New England Regional Primate Research Center requested second-trimester fetal livers. His 1995 protocol notes that the livers will be used ultimately for ''primate implantation,'' including the ''creation of human-monkey chimeras.'' In biology, a chimera is an organism created by the grafting or mutation of two genetically different cell types.

Another protocol is up-front about the researchers' profit motive. Systemix, a California-based firm wanted aborting mothers to know that any fetal tissue donated ''is for research purposes which may lead to commercial applications.''

That leads to the money trail.

Life Dynamics' investigation uncovered the financial arrangement between abortionists and fetal-parts providers. The Uniform Anatomic Gift Act makes it a federal crime to buy or sell fetal tissue. So entities involved in the collection and transfer of fetal parts operate under a documentary rubric that, while technically lawful, looks distinctly like a legal end-around: AGF, for example, pays the Mayfair Women's Center for the privilege of obtaining fetal tissue. Researchers pay AGF for the privilege of receiving fetal tissue. But all parties claim there is no buying or selling of fetal tissue going on.

Instead, AGF representatives maintain that Mayfair ''donates'' dead babies to AGF. Researchers then compensate AGF for the cost of the tissue recovery. It's a service fee, explains AGF executive director Brent Bardsley: compensation for services like dissection, blood tests, preservation, and shipping.

Money paid by fetal-tissue providers to abortion clinics is termed a ''site fee,'' and does not, Mr. Bardsely maintains, pay for baby parts harvested. Instead the fee compensates clinics for allowing technicians like Ms. Ying to work on-site retrieving and dissecting dead babies—sort of a Frankensteinian sublet.

''It's clearly a fee-for-space arrangement,'' says Mr. Bardsley. ''We occupy a portion of their laboratory, use their clinic supplies, have a phone line installed. The site fee offsets the use of clinic supplies that we use in tissue procurement.''

According to Mr. Bardsley, fetal-tissue recovery accounts for only about 10 percent of AGF's business. The rest involves the recovery and transfer to researchers of non-transplantable organs and tissue from adult donors. But, in spite of the fact that AGF recovers tissue from all 50 states, Mr. Bardsley could not cite for WORLD an instance in which AGF pays a ''site fee'' to hospital morgues or funeral homes for the privilege of camping on-site to retrieve adult tissue.

Mr. Bardsley, a trained surgical technician, seems like a friendly guy. On the phone he sounds reasonable, intelligent, and sincere about his contention that AGF isn't involved in the fetal-tissue business for the money.

''We have a lot of pride in what we do,'' he says. ''We think we make a difference with

research and researchers' accessibility to human tissue. Every time you go to a drug store, the drugs on the shelf are there as a result of human tissue donation. You can't perfect drugs to be used in human beings using animals models.''

AGF operates as a nonprofit and employs fewer than 15 people. Mr. Bardsley's brother Jim and Jim's wife Brenda founded the organization in 1994. The couple had previously owned a tissue-recovery organization called the International Institute for the Advancement of Medicine (IIAM), which had also specialized in fetal-tissue redistribution, counting, for example, Mr. Sick among its clients. But when IIAM's board of directors decided to withdraw from involvement with fetal tissue, the Bardsleys spun off AGF—specifically to continue providing fetal tissue or researchers.

Significantly, AFG opened in 1994, the year after President Clinton shattered the fetal-tissue research ban. Since then, the company's revenues have rocketed from $180,000 to $2 million in 1998. Did the Bardsleys see a market niche that was too good to pass up? Brenda Bardsley, who is now AFG president, says no. AGF's economic windfall, she says, is related to the company's expansion into adult donations, not the transfer of fetal tissue. She says she and her husband felt compelled to continue providing the medical community with a source of fetal tissue ''because of the research that was going on.''

''Abortion is legal, but tragic. We see what we're doing as trying to make the best of a bad situation,'' Mrs. Bardsley told WORLD. ''We don't encourage abortion, but we see that good can come from fetal-tissue research. There is so much wonderful research going on—research that can help save the lives of wanted children.''

Mrs. Bardsley says she teaches her own children that abortion is wrong. A Deep South transplant with a brisk. East coast accent. Mrs. Bardsley and her family attend a Southern Baptist church near their home on the Satilla River in White Oak, GA. Mrs. Bardsley homeschools her three children using, she says, a Christian curriculum: ''I've been painted as this monster, but here I am trying to give my kids a Christian education,'' she says, referring to other media coverage of AGF's fetal-parts enterprise.

Mrs. Bardsley says she's prayed over whether her business is acceptable in God's sight, and has ''gotten the feeling'' that it is. She also, she says, reads the Bible ''all the time.'' And though she can't cite a chapter and verse that says it's OK to cut and ferry baby parts, she points out that God commands us to love one another. For Mrs. Bardsley, aiding medical research by supplying fetal parts qualifies.

If they were in it for the money rather than for the good of mankind, says Mrs. Bardsley, AGF could charge much higher prices for fetal tissue than it does, because research demand is so high.

The issue of demand is one of several points on which the testimonies of Mrs. Bardsley and her brother-in-law Brent don't jibe. He says demand for fetal tissue ''isn't all that high.'' She says demand for fetal tissue is ''so high, we could never meet it.'' He says ''only a small percentage'' of aborting moms consent to donate their babies' bodies. She says 75 percent of them consent. He says AGF charges only for whole bodies, and doesn't see how the body-parts company Opening Lines could justify charging by the body part. She says AGF charges for individual organs and tissue based on the company's recovery costs.

Founded by pathologist Miles Jones, Opening Lines was, until recently, based in West Frankfort, Ill. According to its brochure, Opening Lines' parent company, Consultative and Diagnostic Pathology, Inc., processes an average of 1,500 fetal-tissue cases per day. While AGF requires that researchers submit proof that the International Research Board (IRB), a research oversight commission, approves their work, Opening Lines does not burden its customers with such technicalities. In fact, says the Opening Lines brochure, researchers need not tell the company why they need baby parts at all—simply state their wishes and let Opening Lines provide ''the freshest tissue prepared to your specifications and delivered in the quantities you need it.''

Opening Lines' brochure cloaks the profit motive in a veil of altruism. The cover tells abortionists that since fetal-tissue donation benefits medical science, ''You can turn your patients' decision into something wonderful.'' But in case philanthropy isn't a sufficient motivator, Dr. Jones also makes his program financially appealing to abortionists. Like AGF, he offers to lease space from clinics so his staff can dissect children's bodies on-site, but also goes a step further: He offers to train abortion clinic staff to harvest tissue themselves. He even sweetens the deal for abortionists with a financial incentive: ''Based on your volume, we will reimburse part or all of your employee's salary, thereby reducing your overhead.''

Again the money trail: more dead babies harvested, less overhead. Less overhead, more profit.

But Dr. Jones' own profits may be taking a beating at present. When Life Dynamics released the results of its investigation to West Frankfort's newspaper The Daily American, managing editor Shannon Woodworth ran a front-page story under a 100-point headline: ''Pro-Lifers: Baby body parts sold out of West Frankfort.'' The little town of 9,000 was scandalized. City officials threatened legal action against Dr. Jones and his chief of staff Gayla Rose, a lab technician and longtime West Frankfort resident. The story splashed down in local TV news coverage, and Illinois right-to-life activists vowed to picket Opening Lines. Within a week, Gayla Rose had shut down the company's West St. Louis Street location, disconnected the phone, and disappeared.

Area reporters now believe Dr. Jones may be operating somewhere in Missouri. WORLD attempted to track him down, but without success.

The demands of researchers for fetal tissue will continue to drive suppliers to supply it. And all parties will continue to wrap their grim enterprise in the guise of the greater good. But some bioethicists believe that even the greater good has a spending cap.

Christopher Hook, a fellow with the Center for Bioethics and Human Dignity in Bannockburn, Ill., calls the exploitation of pre-born children ''too high a price regardless of the supposed benefit. We can never feel comfortable with identifying a group of our brothers and sisters who can be exploited for the good of the whole,'' Dr. Hook says. ''Once we have crossed that line, we have betrayed our covenant with one another as a society, and certainly the covenant of medicine.''

TRIBUTE TO ETHEL GILROY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. McINNIS. Mr. Speaker, I would like to recognize Ethel Gilroy. Ethel was awarded the prestigious award Southeastern Colorado Chapter of the American Red Cross' Outstanding Supporter for 1999. Repeatedly, Ethel has gone far beyond the call of duty.

A native of Sandwich, Illinois, she married her husband John Gilroy in 1929. In 1981, after her husband passed away Ethel moved to Pueblo, Colorado. It was there that she began a dedication to the bettering of the Red Cross that is the stuff of legend. For most of her life she has been a supporter of the American Red Cross and has been affiliated with the Southeastern Colorado Chapter since 1989. Over the course of the years she has helped countless people stay warm and fed.

Ethel also supports the Salvation Army, Library for the Blind, El Pueblo Boys and Girls Ranch, PBS and Habitat for the Humanity. She is to be admired and commended for her contribution and service to the Pueblo community. So, it is with this Mr. Speaker, that I say thank you to this dedicated woman.

RECOGNIZING FLOOD RELIEF WORKERS

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. SAM JOHNSON of Texas. Mr. Speaker, I would like to recognize the following young people who gave of themselves to help the people of New Braunfels, Comal, and Seguin, Texas, and Strong City, Kansas, in the wake of severe flooding in the fall of 1998. These men traveled many miles, at their own expense, to assist the citizens of these cities by removing countless loads of mud and debris from their houses and yards and by providing much-needed encouragement to those affected by the devastating floodwaters.

Anthony Anderson II, TX; David Bair, OH; Matthew Barber, British Columbia; Ryan Bedford, CA; Jacob Braddy, AZ; Jacory Brady, CO; Daniel Buhler, CA; Warren Burres, IN; James Connelly, CA; Andrew Conway, WA; Seth Cooke, TX; Steven Dankers, WI;

Joshua Dean, WI; Ryan DePoppe, WI; John Dixon, GA; David Edmonson, GA; Stephen Gaither, TX; Travis Gibson, FL; Zechariah Hamilton, FL; David Haynes, MO; Prescott Hendrix, MI; Joshua Horvath, TX; Joshua Johnson, WA; Michael Jones, TX; Lindsay Kimbrough, IL;

Anthony Koca, CA; Mitchell Lane, AR; Joshua Long, CA; Gregory Mangione, MI; Daylan McCants, AZ; Matthew Moran, NY; Russell Moulton, OK; Jeremy Nordberg, TN; Joshua Norwood, WA; Jonah Offtermatt, TX; Daniel Rahe, CO; Isaac Reichardt, MI;

Jerome Richards, MI; David Servideo, VA; Jonathan Scott, CA; Brock Shinkle, KS; Donald Showalter, OH; Charles Snow, TN; Joseph Snow, TX; John Tanner, MI; Ryan Thomas, AL; Timothy Wann, FL; Stephen Watson, TX; Jared Yates, FL; Jonathan Wharton, TX.

THE INTRODUCTION OF LEGISLATION TO MAKE NON-PROFIT DOE CONTRACTORS SUBJECT TO CIVIL PENALTIES FOR SAFETY VIOLATIONS

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. BARTON of Texas. Mr. Speaker, today I am introducing legislation to correct a long-standing problem in the management of Department of Energy facilities.

Current law provides a special deal for DOE's non-profit contractors. When these non-profit contractors violate DOE's nuclear safety regulations, they are exempt from paying any fines for their misdeeds.

This exemption means that we now have two different sets of rules for DOE contractors—one set of rules for the conventional for-profit contractors, who are subject to fines for safety violations, and another set of rules for the non-profit contractors, who pay no penalty whatsoever for safety violations.

Because there are no adverse financial consequences when these non-profit contractors violate safety rules, we have unintentionally created a system in which there is little incentive for the non-profit contractors to take their nuclear safety responsibilities seriously.

The 1988 Price-Anderson Amendments to the Atomic Energy Act specifically exempted seven contractors, including non-profit institutions such as the University of California, from civil penalties. In a 1993 rule, the Secretary of Energy provided an automatic exemption from civil penalties for all non-profit educational institutions. This bill would amend the Atomic Energy Act to eliminate the statutory exemption for specific non-profit contractors and also eliminate the authority of the Secretary of Energy to provide, by regulation, an automatic exemption for all non-profit educational institutions.

At the Committee's request, the General Accounting Office recently completed a review of DOE's enforcement of nuclear safety rules, documenting recent DOE safety violations at DOE facilities. Of the total penalties assessed from 1996 through 1998 for safety violations, one-third of those penalties were assessed against non-profit contractors—and because of the exemptions in statute and in regulation, never had to be paid.

GAO concluded that the exemption for non-profit contractors should be eliminated. It made that recommendation in its report to Congress, and it testified to that effect before the Commerce Committee in a hearing on DOE Worker Safety on June 29, 1999.

This is a good example of how the legislative process works. Problems in agency performance, in this case recurrent safety problems at DOE facilities, prompted a closer look by the Oversight and Investigations Subcommittee, with the assistance of the GAO. This led to the legislation we are introducing today to solve those problems.

A TRIBUTE TO BERT ASKWITH

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mrs. LOWEY. Mr. Speaker, I rise today to express my great admiration for Bert Askwith, a leader in the worlds of business and philanthropy, who this year will be honored by the United Way for his exceptional community service.

Mr. Askwith is a living embodiment of the American dream. He founded Campus Coach Lines while still a college student in Depression-era Michigan. In the years that followed, Mr. Askwith would move Campus Coach Lines to New York and build it into a leading charter company. Indeed, today, Campus Coach supports everything from athletics to education to the arts by providing affordable, quality transportation to major institutions and individuals alike.

Mr. Askwith's business acumen and contributions to his field are evidenced by his election to six terms as President of the New York State Bus Association and by his service as a Director of the American Bus Association.

But in his home town of Harrison and home county of Westchester, Mr. Askwith is at least as well known for his volunteer work and boundless devotion to community needs. His contributions to the United Way alone have been vast—spanning everything from leadership of a local chapter to policy-making with the national organization.

Mr. Askwith is blessed with a wonderful family. His wife, Mimi, is a national resource in her own right and was voted Harrison's ''Woman of the Year'' in 1995. Mimi and Bert's energy and commitment are reflected in and shared by their three children, Patti Kenner, Dennis Askwith, and Kathy Franklin, as well as in their four grandchildren.

I am pleased to join in recognizing Bert Askwith on his many achievements and his towering personal example. He is a great man and a great American.

TRIBUTE TO EUGENE C. BAUER

HON. DAVID D. PHELPS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. PHELPS. Mr. Speaker, I rise today to pay tribute to Eugene C. Bauer. Mr. Bauer has recently retired from both his job at Ozee Terminal Incorporated and a life-long service to Coles County, Illinois. On September 28, 1914, Eugene C. Bauer was born and raised on his family's farm in Strasbourg, Illinois. Mr. Bauer and his wife Sharon are the parents of three children: Dr. Eugene A. Bauer, Dean of the School of Medicine at Stanford University, Kim M. Bauer, a Historic Research Specialist, at the Illinois Historical Preservation Society, and Mrs. Pamela K. Stewalt, who is employed by AmericanCIPS.

I am most pleased to inform my colleagues of Eugene C. Bauer's life-long dedication to improving the lives of his friends, neighbors, and fellow residents of Coles County. His accomplishments and accolades are almost too numerous to mention, but I want to take this time to do just that. Mr. Bauer has provided his valuable service and guidance to the Mattoon Association of Commerce, Mattoon Rotary Club, the American Red Cross, School District 100-Mattoon, Community Unit School District #2 of Coles County, Lake Land College, Mattoon Area Development Coalition, Coles Together, keeping and renovating the Post Office in downtown Mattoon and the Coles County Board. He was awarded the Rotary Club Man of the Year 1973–1974, the Postal Award in 1980, the Civic Award by the Mattoon Association of Commerce in 1981 and the Distinguished Service Award by Land Lake College in 1988. He is also the owner of Ozee Terminals Incorporated, which is a real estate holding and development company established in 1945 by Carl Ozee.

Mr. Speaker, I know that Eugene C. Bauer will be sorely missed by all the people he works with and the organizations he is affiliated with in Coles County during his retirement. However, I am sure that his presence in the Coles County Community will still be strong, while he is enjoying his retirement to the fullest. He enjoys reading, gardening, music, splitting wood and spending time with his family. I hope my fellow colleagues will join me now in congratulating Eugene C. Bauer on his retirement and wishing him God's speed in all his future endeavors.

COMMEMORATING THE 66TH ANNIVERSARY OF THE UKRAINIAN FAMINE OF 1932–1933

HON. BOB SCHAFFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. SCHAFFER. Mr. Speaker, this year, the Ukrainian nation and the entire Ukrainian-American community will solemnly commemorate the 66th anniversary of the Ukrainian famine of 1932–1933. The poignancy that envelopes this sorrowful episode in Ukrainian history stems from the fact the famine was an artificial famine. The Soviet government decided to break the resistance of all Ukraine through sheer naked force. Indeed, Josef Stalin was determined to crush all vestiges of Ukrainian nationalism.

Stalin quickly transformed the U.S.S.R. into an industrialized state at enormous cost to human and material resources. Between 7 to 10 million Ukrainians perished as a direct result of his forced agriculture collectivization.

In 1932, the Soviets increased the grain procurement quota for Ukraine by 44%. They were aware this extraordinarily high quota would result in a grain shortage, therefore resulting in the inability of the Ukrainian peasants to feed themselves. Soviet law was quite clear. No grain could be given to feed the peasants until the quota was met. The famine broke the peasants will to resist collectivization and left Ukraine politically, socially, and psychologically traumatized.

Although the world press reported the truth about the famine in Ukraine, regrettably, Western industrialists and businessmen proceeded to do business with the U.S.S.R.—especially by buying Ukrainian wheat at cheap prices, heedless of the fact that millions of Ukrainians had perished from hunger because Moscow had confiscated this wheat in order to sell it for profit abroad.

This Saturday, Ukrainian-Americans will be afforded an opportunity to observe this tragic chapter in Ukraine's history on November 21, 1999 with a special requiem service in New York's St. Patrick's Cathedral. This day has been designated as ''Ukrainian Famine Day of Rememberance'' in hopes that, in remembering this tragic event, the world community recognizes that the only safeguard to prevent future atrocities of this nature is to maintain and ensure support for an independent Ukrainian state.

RECOGNIZING TORNADO CLEANUP WORKERS

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. SAM JOHNSON of Texas. Mr. Speaker, I would like to bring to the Congress' attention the work of the following 39 young men who spent two weeks assisting the people of Little Rock, Arkansas in clean-up efforts in the aftermath of a tornado that struck the city in January 1999. These men served under the direction of Mayor Jim Dailey to clear fallen trees and debris for property-owners. They should be commended for their hard work and dedication to helping others in a time of great need.

Robert Adamis, CA; Nathan Allen, OH; Ryan Anders, MI; Timothy Anderson, WY; Luke Borchers, MO; Jeff Bramhill, Ontario; Nathan Bryant, GA; Donald Burzynski, FL; Benjamin Caffee, AL; Brian Cahill, TX;

Curtis Eaton, TN; Timothy Ferry, NJ; Joshua Fox, CA; Jonathan Gunter, IN; Christopher Hanson, WI; Luke Hodges, OK; Thomas Hogarty, VA; Stephen Hough, IN; Riley Irwin, Alberta; Jeremy Jansen, KS;

Jeffery Jestes, OK; Seth Johnson, NE; Nathan Lord, GA; Jonathan McKeithen, FL; Nathan Nazario, PR; Timothy Noland, MA; Elisha Odegaard, MN; Andrew Papillon, MN; Stephen Parrish, TN; Daniel Petersen, GA;

Misha Randolph, TX; John Saucier, AL; Frank Shao, NJ; John Tanner, MI; Justin Tanner, MI; John Thornton IV, TN; Matthew Whitaker, NY; Vincent Williams, OK; David Winsinger, FL.

PROTECTING THE FUTURE OF SOCIAL SECURITY

HON. RANDY ''DUKE'' CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. CUNNINGHAM. Mr. Speaker, I rise today to talk about securing the future of Social Security.

Today, nearly 44.4 million Americans receive Social Security benefits. More than 4 million of these live in my home State of California. Seniors all over America rely on it as a major source of retirement income. However, Social Security is not just a retirement program. It also provides badly needed survivor and disability benefits to America's working men and women.

Unfortunately, the future of Social Security is not secure. Today, more young people believe in UFOs than believe Social Security will be there for them. We must work to strengthen Social Security and protect our nation's retirement system.

A simple first step is for politicians to stop raiding the Social Security Trust Fund to pay for more government spending. Every senior—and every future senior—that I talk with agrees with me on this.

In 1969, the Democrats were in control of Congress. They looked far and wide for money to pay for their new social welfare programs. That was the year they broke the people's trust. Every year since then, a portion of the Social Security Trust Fund surplus has been spent on other government spending. Americans have endured 30 years of this, turning our Social Security Trust Fund into a ''slush fund.''

For the seventh consecutive year, President Clinton proposed spending billions of the Social Security surplus on government programs. We Republicans in Congress would have none of it. For the first time in over a generation, we are not spending Social Security funds on anything other than Social Security benefits.

In addition, this spring, the House passed the Social Security and Medicare Safe Deposit Act of 1999 (H.R. 1259) and moved one step closer to protecting the future of Social Security. This bipartisan measure won a vote of 416–12, with all but one of the ''nay'' votes coming from members of the President's party—the same party that raided Social Security for thirty long years. Our Social Security lockbox legislation will change the way the budget is prepared so Social Security funds cannot be used for other purposes. It helps every American guard against politicians' attempts to raid the Social Security surpluses for more government spending. I call on my colleagues in the Senate to pass this bill and help us keep 100 percent of Social Security funds for Social Security.

Mr. Speaker, the American people are tired of politicians who say nice things about Social Security one day, then raid it for new government spending the next. The Republican Congress can and will protect 100 percent of the Social Security Trust Fund and stop the raid on Social Security this year. We will restore trust to the Social Security Trust Fund. And we will not go back. That is my plan, and I hope that my colleagues will join me in this important effort.

HONORING JACK WOOLF, AGRICULTURIST OF THE YEAR

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. RADANOVICH. Mr. Speaker, I rise today to honor Jack L. Woolf, chairman of Woolf Enterprises and the Woolf Farming Company, for being named the 1999 Agriculturist of the Year by the Fresno Chamber of Commerce. Mr. Woolf is being honored on November 17, 1999 at the Ag Fresno Farm Equipment Exposition luncheon.

Jack Woolf is well known throughout the Central Valley agricultural community. In addition to Woolf Farming, Woolf Enterprises holds a major interest in Los Gatos Tomato Products; Harris-Woolf California Almond Processing; Cal-West Rain and Aliso Ranch, Madera County. Woolf is also president of Woolf Farming of Arizona.

Woolf currently serves on the Board of Directors for Valley Public Television and recently received the Public Television Development Leadership Award for 1999. He also serves on the Fresno Historical Society Board.

Jack Woolf began his agricultural career by joining Russell Giffen, Inc. in 1946 where he served as general manager for more than 28 years. Woolf also served as chairman of the Kingsburg Cotton Oil Co., president of the California Tomato Growers Association and as a member of the Board of Regents for Santa Clara University.

He is a past member of the board of directors for Westlands Water District, California Valley Bank and San Joaquin College of Law.

Mr. Speaker, I want to congratulate Jack Woolf for being named Agriculturist of the Year for 1999. I urge my colleagues to join me in wishing Jack many more years of continued success.

HONORING THE APPOINTMENT OF ALPHONSO ''AL'' MALDON, JR., TO THE POSITION OF ASSISTANT SECRETARY FOR FORCE MANAGEMENT POLICY, DEPARTMENT OF DEFENSE

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. CLYBURN. Mr. Speaker, I rise today to honor and congratulate Mr. Alphonso ''Al'' Maldon, Jr., for his confirmation as the Assistant Secretary for Force Management Policy at the Department of Defense. Many of us here in the House of Representatives know Al Maldon for his tireless dedication to the United States Government in his capacity as Deputy Assistant to the President for Legislative Affairs and White House Congressional Liaison to the Senate and House of Representatives. In this capacity, he provides policy making and strategic advice to the President. Although Mr. Maldon is indirectly involved with a myriad of legislative issues, he is directly responsible for those issues in both the House and Senate involving Trade, Defense, International Affairs, Intelligence and Veterans Affairs.

In March 1993, Mr. Maldon was appointed as a Special Assistant to the President for Legislative Affairs. He subsequently served as the first African-American to be appointed as Deputy Assistant to the President and Director of the White House Military Office. In this capacity he managed and directed a large staff of over 1,900 personnel—providing operational, logistical, and state-of-the-art communications support to the President.

Prior to joining the Administration, Mr. Maldon enjoyed an outstanding military career. He entered active duty service as a commissioned officer in the United States Army in August of 1972. His assignments included tours in Europe, Korea, and various posts throughout the United States. Some of his highly visible positions included assignments as the Executive Officer, Armed Forces Staff College; and as Admissions and Public Liaison Officer at the United States Military Academy, West Point, NY. His career progressed through increasingly responsible positions as a Field Artillery and Adjutant General Corps Officer. He

completed his military career as a Colonel with an assignment to the United States House of Representatives as the Deputy Director for Army Legislative Affairs in February 1993.

Mr. Maldon holds a Master of Arts Degree from the University of Oklahoma in Human Relations and a Bachelor of Arts Degree from Florida A&M University. He also graduated from various military schools and colleges, including the Command and General Staff College, the Armed Forces Staff College, and the Army's Organizational Effectiveness Management Consultant School in Monterey, CA. He is the recipient of numerous military decorations including the Legion of Merit, the Defense Meritorious Service Medal (with two oak leaf clusters), the Army Commendation Medal and the U.S. Army Staff Badge. In addition, Mr. Maldon is a recipient of the United States Congressional Award for Leadership and Patriotism, and he is listed in Who's Who in America.

He has been blessed with a loving and caring family including his wife Carolyn and their daughter Kiamesha Racha'el. The family resides in Fairfax Station, VA.

As Assistant Secretary for Force and Management Policy, Mr. Maldon will be responsible for policies, plans and programs for military and civilian personnel management, including recruitment, education, career development, equal opportunity, compensation, recognition, discipline, and separation of all Department of Defense personnel, both military and civilian.

Mr. Speaker, Al Maldon's dedication to public service, both as a civilian and as a member of the United States Army serves as a model to us all. I ask my colleagues to join me in wishing him the very best in his new assignment and his continued service to the citizens of the United States. I am proud to count him as a friend.

CONGRATULATING THE PEOPLE OF BONITA SPRINGS, FLORIDA

HON. PORTER J. GOSS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. GOSS. Mr. Speaker, I am proud to recognize the creation of the ninth city in the Fourteenth District of Florida, the City of Bonita Springs. After many months of debate and discussion, the people of Bonita Springs cast their ballots in favor of incorporation as the fifth city in Lee County, FL on November 2, 1999.

As a new Millennium begins, so the citizens of Bonita Springs will embark on a new challenge, the challenge of creating a new city from residents' ideas of what their community ought to be. It comes as no surprise that there are those willing to do the hard work involved with new cityhood. I'm sure they will find the rewards great and surprising, as I discovered in my experience when the City of Sanibel was born 25 years ago.

Now that the incorporation debate is over, I know the people of Bonita Springs will come together, roll up their sleeves and begin the business of fashioning a city that they can be proud of. Beginnings are marvelous, because the imagination is the only limitation. Of course, not everything can be accomplished immediately, but the ideas that come forth now can certainly become part of long-range goals.

Again, my congratulations to the people of Bonita Springs. I stand ready to help them make their city the best it can be.

PRESIDENT ALIEV RECOMMITS AZERBAIJAN TO RELIGIOUS FREEDOM

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. SMITH of New Jersey. Mr. Speaker, I am pleased to bring to the attention of my colleagues recent positive developments on religious freedom in Azerbaijan. Members of the Commission on Security and Cooperation in Europe, which I chair, raised last week our concern over the raids of the Baptist and Lutheran churches in Baku, the threatened deportation of foreigners associated with these churches, and the firing of a number of Jehovah's Witnesses from their jobs because of their religious affiliation. In a letter to President Haidar Aliev on November 3, referencing Azerbaijan's OSCE commitments to religious liberty, we raised the recent incidents that violate religious liberty and asked Azerbaijan to register religious groups that have not been able to gain legal status.

On Monday, November 8, in a meeting with U.S. Ambassador Stanley Escudero, President Aliev publicly reaffirmed Azerbaijan's commitment to religious freedom, pledged to redress recent problems faced by minority religious groups, and gave assurances there would be no further religious liberty violations in Azerbaijan. In a statement that was carried by the government-controlled media, President Aliev said, ''I have vigorously warned administrative bodies of the fact that arbitrariness on such issues is inconceivable. One cannot restrict freedom of conscience and creed.'' Our Embassy in Baku reports that the courts have set aside the deportation orders for the foreign Christians, and the Garadag Gas Plant has reinstated the jobs of the Jehovah's Witnesses.

Mr. Speaker, I commend Ambassador Stanley Escudero for persistently raising these issues with Azeri authorities. I also commend the work of Political Officer Michael Speckhard who has been a tireless advocate for religious freedom.

I am hopeful that President Aliev's remarks signal a new dawn in Azerbaijan and that his country will become the region's beacon for religious freedom. The prompt response of President Aliev to these recent events is encouraging, and I am hopeful that religious group that previously have not been able to obtain legal status will now be registered and will be free to practice their faith.

RECOGNIZING TORNADO RELIEF WORKERS

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. SAM JOHNSON of Texas. Mr. Speaker, I would like to give recognition to a group of 21 young folks who traveled to the cities of Jackson and Clarksville, Tennessee at the request of city officials to provide assistance in clean-up efforts, following a tornado in January 1999. These outstanding young men were noted for their teamwork, enthusiasm and diligence in all they did to serve the people of Jackson and Clarksville. They are to be commended for their selfless service.

Jeff Bramhill, Ontario; Jason Brown, AL; Donald Burzynski, FL; Brian Cahill, TX; Brian Drozdov, WA; Christopher Ekstrom, OR; Paul Ellis, MS; Cory Finch, MO; Joshua Fox, CA; Christopher Hanson, WI;

John Hill, IA; Seth Johnson, NE; Jonathan Lancaster, MI; Joshua Meals, TN; Samuel Mills, TX; Daniel Petersen, GA; Lance Stoney, British Columbia; John Tanner, MI; John Thornton IV, TN; Mark Wahl, OR; Andrew Whitaker, NY.

NATIONAL PRAYER BREAKFAST TRANSCRIPT INDUCTION

HON. STEVE LARGENT

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. LARGENT. Mr. Speaker, since the early 1950's, Members of the Senate and the House of Representatives prayer groups have hosted an annual gathering in our Nation's Capital known as the National Prayer Breakfast. The Breakfast has afforded the opportunity for both the House and Senate to come together, in a nonpartisan alliance, whether in times of peace or times of war, in times of abundance or times of scarcity, to prayerfully support the President and other leaders in this country. This year I was given the privilege of chairing this event.

We were honored once again to have the President and First Lady, and the Vice President and Mrs. GORE in attendance. We were also honored to have several heads of state from Macedonia, Albania, Ecuador, and Benin. Max Lucado, an author, pastor, and this year's keynote speaker, spoke of the model that Jesus of Nazareth gave of love, not only for those we like and agree with, but most importantly, for those we do not.

On behalf of the Members of the Senate and House who have hosted this Breakfast, I submit the transcript of the breakfast for insertion into the RECORD for our posterity.

1999 NATIONAL PRAYER BREAKFAST

Thursday, February 4, 1999, Hilton Washington and Towers Hotel, Washington, DC

Chairman: Representative Steve Largent

Representative LARGENT. My name is Steve Largent, and I want to welcome you to the National Prayer Breakfast. I am a member of the House of Representatives from the state of Oklahoma, and I am this year's chairman and will be acting as the Master of Ceremonies for the prayer breakfast this year.

It is my pleasure at this time to introduce Mr. Jim Kimsey, who will begin with our pre-breakfast prayer.

Mr. KIMSEY. Basil was a fourth-century saint from Asia Minor. He said, ''We pray in the morning to give us the first stirrings of our mind to God. Before anything else, let the thought of God gladden you.'' Would you begin this day with me in prayer?

Dear God, may the efforts of all those gathered here today reach far and wide—our

thoughts, our work, our lives. Make them blessings for your kingdom. Let them go beyond today. Our lives today have consequences unseen. Each life has a purpose. Please, God, grant us the wisdom to recognize that purpose.

Today is new and unlike any other day, for God makes each day different. To live each day wisely, we need wisdom—wisdom in our hearts and in our thoughts. We need wisdom in the choices we make. Psalm 90 implores us, ''Lord, teach us to number our days aright, that we may gain wisdom in our heart.''

Each day, like today, we pray to God to help us to do the things that matter, not to waste the time we have. We know the moments we have are precious. We pray that God helps us count them dear and to teach us to number our days aright; that he fills this day and every day with kindness so that we may be glad and rejoice all the days of our life.

Numbering our days aright is crucial for our own happiness, but it is even more important for the rest of the world. Each day we are presented with opportunities to make a difference; small differences, like a hello to a lonely neighbor, to extra change dropped in a homeless person's cup. And we can make big differences feeding the hungry, teaching children to read, bridging understanding and peace between nations. Every difference you make matters, just as every day matters. Edmund Burke wisely noted long ago, ''The only thing necessary for the triumph of evil is for good men to do nothing.''

We are especially blessed today. We have a unique opportunity in our frantic lives to begin with prayer and listen to the wisdom of the incredible group assembled here today. I would like to leave you with one thought. Yesterday is history, and tomorrow is a mystery. But today is a gift. Thank you.

(Opening Song by the United States Army Chorus.)

Representative LARGENT. Thank you to the United States Army Chorus. We appreciate that. That is inspiring, and a good way to start the breakfast.

At this time I would like to call to the podium General Dennis Reimer, who is the Chief of Staff of the Army, for our opening prayer.

General REIMER. Let us pray.

Almighty and eternal God, creator of all things, we ask your presence with us at this gathering this morning as we raise our minds and hearts to you. May the words we share be an echo of your voice. We are grateful for our nation's long and abiding legacy of freedom. We thank you for your gifts, which become richer as we share them, and more secure as we guard them for one another.

Gracious Lord, we praise you for the spirit of liberty you have established through our nation's founders. Lord, we remember this morning the words of Peter Marshall, who gave thanks for the rich heritage of this good land, for the evidences of thy favor in the past and for the hand that hath made and preserve this a nation. We thank you for the men and women who, by blood and sweat, by toil and tears, forged on the anvil of their own sacrifice all that we hold dear. May we never lightly esteem what they obtained at a great price. Grateful for rights and privileges, may we be conscious of duties and obligations. May his words continue to be timeless.

Lord, we ask that you will strengthen us to stand firmly against cruel and heartless discrimination or prejudice of any kind. In your holy presence we ask that the things which make for peace may not be hidden from our eyes. Help us catch your vision of a greater destiny and the call of holy responsibility. May the moral fibers of duty, honor and country be seen in all we do.

Lord our God, in profound gratitude we ask your blessing on the United States of America. Bless now this food to our use and us to your service. In your holy name we pray. Amen.

Representative LARGENT. Thank you, General Reimer, a great Oklahoman.

Please enjoy your meal. We will continue with the program in about 15 minutes. Thank you.

(Breakfast)

Representative LARGENT. In addition to the President and First Lady, and the Vice President, this morning we have a number of special guests. We have members of the Senate and the House, and Members of the President's Cabinet. We have Members of the Joint Chiefs, prime ministers, heads of corporations, student leaders and numerous other dignitaries. We have people from all 50 states and over 160 countries represented here this morning. (Applause.)

In addition, we have with us several heads of state which I would like to recognize at this time. We have His Excellency Ljubco Georgievski, Prime Minister of the Former Yugoslav Republic of Macedonia. (Applause.) Also joining us is His Excellency Mathieu Kerekou, President of the Republic of Benin. (Applause.) His Excellency Jamil Mahuad, President of Ecuador. (Applause.) And His Excellency Pandeli Majko, Prime Minister of the Republic of Albania. (Applause.) I get extra credit for all of that. (Laughter.)

At this time, I would like to introduce the head table. Beginning on my left and your right is Mr. Jim Kimsey. He is the founder of America On Line and is a gentleman who has a deep love for the District of Columbia. With Mr. Kimsey is Ms. Holidae Hayes. We are glad to have you here. (Applause.)

Next to them is Mr. Michael W. Smith. He is a Grammy-winning recording artist who will perform for us later, and his wife, Debbie. (Applause.)

Next we have Dr. Laura Schlessinger, also known as Dr. Laura. (Applause.) I don't even need to say who she is, right? (Laughter.) No, she is one of America's most listened-to-radio talk show hosts. She is the co-author of the current bestseller, ''The Ten Commandments: The Significance of God's Law in Everyday Life.'' She is also a licensed marriage, family, and children's counselor and is frequently referred to as America's mommy. (Applause.)

Next to Dr. Schlessinger is Senator Kay Bailey Hutchison, an outstanding Senator from the State of Texas, who will share with you later about the Senate and House breakfast groups. Senator, thank you. (Applause.)

Next is Annie Glenn, wife of Senator John Glenn. Annie is a great friend and a great example for us all. (Applause.) And then we have Senator Glenn, who is one of our national heroes, whose return to space last year had me considering out of retirement, briefly. (Applause.)

Next is our Vice President, Al Gore. Every year Congress hosts a National Student Leadership Forum on Faith and Values, and this year the Vice President and his wife, Tipper, were kind enough to open up their home to about 200 student leaders from across the country and actually spent a lot of time with them individually, talking with them. Mr. Vice President, please tell Tipper we said thank you very much. (Applause.)

Next are President Clinton and the First Lady. (Applause.) I want to tell you an interesting story that I think also is a bit of a glimpse behind the scenes of President Clinton. After the prayer breakfast two years ago, I sent him a note thanking him for his remarks, which were wonderful, as they will be this morning. He actually was in the process of writing me a note and said, ''No, I thought I would just call.''

So he called our home, and my daughter Casie, who at that time was about 15 years old, answered the phone and said, ''The President of the United States is calling for Congressman Steve Largent.'' My daughter put the phone on hold and came and got me and she said, ''Dad, somebody said that the President is on the line. Would you please get him off the line because I've got Brad Pitt holding on the other line.'' (Applause.)

Next to the First Lady is my first lady, Terry Largent. (Applause.)

Next we have our speaker this morning, Max Lucado and his wife Denalyn. I will tell you more about Max just a little bit later. (Applause.)

Next to the Lucados is Senator Joseph Lieberman, a great senator and a man who is known for his integrity and for his love of God. (Applause.)

Next is one of my good friends and colleagues in the House of Representatives, Harold Ford, Jr. He is the first African-American in history to succeed his father in the U.S. House of Representatives. (Applause.)

And next to Congressman Ford are General Dennis Reimer, who I introduced earlier, one of our great military leaders, and his wife, Mrs. Mary Jo Reimer. (Applause.)

As we gather this morning, this is the National Prayer Breakfast, and there are many around the world who need our prayers here this morning. I want to take a moment to mention just a few of the people that are in dire need of our prayers this morning, including King Hussein, Billy Graham, Pope John Paul II, and the victims of the recent earthquake in Colombia. In fact, it is my understanding that King Hussein is undergoing therapy for cancer treatment as we are speaking and is watching the prayer breakfast this morning.

Many in the Senate and the House breakfast group have had the opportunity over the years to become friends in this fellowship with his majesty, King Hussein of Jordan. As friends, we have prayed with his majesty in times of triumph and times of trial. And as he undergoes treatment this week for the trial of a lifetime, we join all our prayers to uplift his spirit and strengthen his family, his loved ones and his medical care team in a special way.

Also, many of you may be here this morning asking, ''What is the prayer breakfast and why am I here?'' I want to tell you just a little bit about the prayer breakfast and its genesis. It is not very complicated, actually. There was a small group that began meeting in the Senate back in the early 1950s. They were joined later by a small group that began in the House. At some time they decided, wouldn't it be a good idea if the House group and the Senate group met together to pray for the President of the United States. And that is how the prayer breakfast began 47 years ago. You are going to hear a little bit more about the Senate and House groups from Senator Hutchison and what we are doing in both chambers as we speak.

The members concluded that whether our country is experiencing peace or war, bounty or struggle, there is a tremendous need for people of faith to lift the President up in prayer. This is not now, nor has it ever been, a political event. When we come to the prayer breakfast, we take our political hats off and come together to talk and pray about the principles of Jesus.

One individual who embodies these principles and who generally graces our presence here at the prayer breakfast is Dr. Billy Graham. Unfortunately, because of his health considerations, Dr. Graham is unable

to attend this year. However, by way of a letter, he sends his greetings. I would like to share a portion of his letter with you, because I believe it captures the spirit of the occasion.

Dr. Graham writes, ''After so many years, the most difficult thing for me to do is to inform you that I will not be able to come to the prayer breakfast as I had planned. I hope you will give my greetings and the promise of prayer for this important gathering this morning. Our country is in need of a unity that only God can bring. We must as a people repent of our sins and turn to God in faith. He alone can heal our divisions, forgive our sins and bring the spiritual renewal the nation needs if we are to survive. I deeply regret that I cannot be with you today, but I will be in prayer that God will give the greatest spirit of spiritual renewal that we have ever had. Please assure the President and Mrs. Clinton, Vice President and Mrs. Gore, and the other leaders gathered at the breakfast, that they are in my constant prayers. God bless you all. Billy Graham.'' (Applause.)

Mr. President, I would just add that our prayer is that while you are here with us, you will have a sense of peace and rest and will understand that as you leave here that there are people all over the world that are praying for you.

Now, Senator Kay Bailey Hutchinson will share with you about the House and Senate prayer groups.

Senator HUTCHISON. Thank you, Congressman Largent. And thank you for all the work you have done to make this a wonderful event. (Applause.) Mr. President and Mrs. Clinton, Mr. Vice President, we are so honored to have all of our guests today.

It is gratifying to see such a large and distinguished crowd for this great Washington tradition. We come for our own reasons, some more inspired than others. For some, it is the prayer. Perhaps for some it is the breakfast. (Scattered laughter.) But as I look around this morning, in this city, I am reminded about the small-town Texas preacher who phoned the local newspaper editor on Monday to thank him for making a mistake in the paper. And the editor said, ''Well, why are you thanking me for the mistake?'' And the preacher said, ''Well, the topic I sent you was, 'What Jesus Saw in the Publicans and Plutocrats.' What you printed was, 'What Jesus Saw in Republicans and Democrats.' The curiosity brought me the greatest crowd of the year.'' (Laughter.)

Obviously, we do not come here today as Republicans or Democrats, or even as Americans. We come as God's human creation, seeking guidance in our daily lives. I am pleased to report for the United States Senate and the House of Representative this morning. Each of us has a regular weekly meeting at breakfast, and our regulars rarely miss it. It is the priority time on our schedules. It is a time for fellowship and reflection, two commodities that are often in short supply in the course of our daily lives.

It is also a time to renew old acquaintances. One of the regulars who grace the Senate meeting is former Senate Majority Leader Mike Mansfield. Every Wednesday morning he comes in and orders bacon and eggs and biscuits, and all of my younger colleagues are eating granola and fruit. (Laughter.) We tell him we love to see a guy that still eats like a guy. (Laughter.) We figure that the breakfast and the prayer is working for him, because he is 96 years old. (Applause.)

We are blessed with occasional drop-ins. Both the Vice President and the President have dropped in on our prayer breakfasts, and we enjoy it very much. But mostly it is just us, our members and our former members, who are always welcome. We spend our sessions discussing different things. Sometimes it is the events of the day and what bearing they may have on our spiritual growth and renewal. At other times, we hear the testimony of a colleague or we help him or her respond to a personal crisis. There is only one informal rule: we never discuss Senate or House business.

The Senate and the House are institutions, that, by their very nature and genius, are diverse. They represent varied sections and interests that define the great nation that is ours. They come together to find common ground. But in our prayer breakfast, we start on common ground and we grow together from there. We start from the acceptance that each of us is flawed, that we all need guidance, and that none of us alone has the answers. We grow from the relationship that bonds us. We gain the strength to fulfill our collective duty to develop and nurture one nation under God, indivisible, with liberty and justice for all. That is what all of us hope that this annual meeting does, to inspire us to do better in the next year for our respective nations.

Thank you. Thank you, Steve. (Applause.)

Representative LARGENT. Thank you, Senator. And now, for a reading from the Holy Scriptures, Dr. Laura Schlessinger.

Dr. SCHLESSINGER. First, I would just like to say I cannot tell you how touched and honored I am to be here doing this. You have no idea what it means to me. This is Deuteronomy 8.

''You shall faithfully observe all the instruction that I enjoin upon you today, that you may thrive and increase and be able to possess the land that the Lord promised on oath to your fathers. Remember, the long way that the Lord your God has made you travel in the wilderness these past 40 years, that he might test you by hardship to learn what is in your hearts, whether you would keep his commandments or not.

''He subjected you to the hardship of hunger and then gave you manna to eat, which neither you nor your fathers had ever known, in order to teach you that man does not live by bread alone, but that man may live on anything that the Lord decrees. The clothes upon you did not wear out, nor did your feet swell these 40 years.

''Bear in mind that the Lord your God disciplines you just as a man disciplines his son. Therefore, keep the commandments of the Lord your God. Walk in his ways and revere him. For the Lord your God is bringing you into a good land, a land with streams and springs and fountains issuing from plain and hill, a land of wheat and barley, of vines, figs and pomegranates, a land of olive trees and honey, a land where you may eat food without scarcity, where you will lack nothing, a land whose rocks are iron and from whose hills you can mine copper.

''When you have eaten your fill, give thanks to the Lord your God for the good land which he has given you. Take care, lest you forget the Lord your God and fail to keep his commandments, his rules and his laws, which I enjoin upon you today. When you have eaten your fill and have built fine houses to live in and your herds and flocks have multiplied and your silver and gold have increased and everything you own has prospered, beware lest your hearts grow haughty and you forget the Lord your God, who freed your from the land of Egypt, the house of bondage, who led you through the great and terrible wilderness with its serpents and scorpions, a parched land with no water on it, who brought forth water for you from the flinty rock, who fed you in the wilderness with manna, which your fathers had never known, in order to test you by hardship, only to benefit you in the end.

''You say to yourselves, 'My own power and the might of my own hand have won this wealth for me.' Remember that it is the Lord your God who gives you the power to get wealth in fulfillment of the covenant that he made an oath with your fathers, as is still the case. If you do forget the Lord your God and follow other gods to serve them or bow down to them, I warn you this day that you shall certainly perish. Like the nations that the Lord will cause to perish before you, so shall you perish, because you did not heed the Lord your God.''

Shalom. (Applause.)

Representative LARGENT. Thank you, Dr. Laura. Now Michael W. Smith.

(Michael W. Smith sings ''Salvation Belongs to God.'')

Representative LARGENT. Thank you, Michael.

As you are aware, Senator Glenn made history recently by returning to space 36 years after he became the first American to orbit the earth. During Senator Glenn's space flight last year, he kept in contact with the President via e-mail. At one point, the Presdient E-mailed Senator Glenn to let him know he had spoken to an 83-year-old woman from Queens and asked her what she thought of the mission. She replied that it seemed like a perfectly fine thing for a young man like Senator Glenn to do. (Laughter.) So please welcome the young Senator Glenn to the podium. (Applause.)

Senator GLENN. Thank you. (Continued applause.) Thank you all very much. Thank you all very, very much. Steve, I thank you for that introduction very much also.

Let me add a couple of Old Testament thoughts to what Dr. Laura just read for you a moment ago. These readings have been favorites of mine for long time, and I wanted to add those before I get over into a couple of quotes from the New Testament.

I am sure you all are very familiar with that part in Ecclesiastes that starts out, ''To everything there is a season, and a time for every purpose under heaven.'' I won't take time to read all of it exactly, but you remember that. ''A time to be born and die, plant, pluck up that which is planted, a time to kill, heal, break down, build up, weep, laugh, mourn, dance, cast away stones, gather stones, embrace, time to refrain, time to get, time to lose, time to keep, cast away, rend and sow, silence, speak, love and hate, time of war, time of peace.''

That about covers the whole gamut of the human experience. There is not much we could add to that. That has always been one that I thought leads us to believe that there is a time for everything intended for us, than God wants us to live a full life. There is a time for everything. There is a time to live and a time to do—for all these things.

There is another passage that I also like. This came to me and has been a favorite, because when I was training way back in World War II days, which does show my age, I guess, my mother sent a passage to me that I have always thought was very apropos, not only for that time and what I was looking forward to then, but also no matter what happens to us any time in life. And that is out of Psalms 139.

''Whither shall I go from thy spirit, or whither shall I flee from thy presence? If I ascend up into heaven, thou art there. If I make my bed in hell, behold, thou are there.'' And this part in particular: ''If I take the wings of the morning and dwell in the uttermost parts of the sea, even there shall thy hand lead me and thy right hand shall hold me.'' To me, that dwelling in the uttermost parts of the sea also means going into space, I can tell you that. Those two passages together I have always thought were about my favorite parts of the Scripture.

Now to our New Testament reading, which I understand is also the favorite of some of the other people here this morning. Romans 8: ''Who shall separate us from the love of Christ? Shall tribulation or distress or persecution or famine or nakedness or peril or sword? As it is written, 'For thy sake, we are killed all day long. We are counted as sheep for slaughter.' Nay, in all these things, we are more than conquerors through him that loved us. For I am persuaded that neither death nor life nor angels nor principalities nor powers nor things present nor things to come nor height nor depth nor any other creature shall be able to separate us from the love of God which is in Christ Jesus our Lord.''

The second passage is out of Philippians: ''Rejoice in the Lord always. And again I say, rejoice. Let your moderation be known unto all men. The Lord is at hand. Be careful for nothing, but in everything, by prayer and supplication, with thanksgiving, let your requests be made known unto God. And the peace of God, which passeth all understanding, shall keep your hearts and minds through Christ Jesus. Finally, brethren, whatsoever things are true, whatsoever things are honest, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report, if there be any virtue, if there be any praise, think on these things. Those things which ye have both learned and received and heard and seen in me, do. And the God of peace shall be with you.''

Thank you. (Applause.)

Representative LARGENT. Thank you, Senator Glenn. Please welcome to the podium, ladies and gentlemen, the Vice President of the United States, Albert Gore, Jr. (Applause.)

Vice President GORE. Thank you, Steve. Thank you very much. Thank you, Congressman Largent; Mr. President, Mrs. Clinton; Mr. Speaker; distinguished guests.

To all of those who have worked so hard to make this breakfast what it is, including a lot of men and women in the Overflow Room, who did more work than anybody else, I want to thank them. When I went over to speak with them during the breakfast briefly, by sheer coincidence, I read exactly the same passage from Romans that John just picked here.

And to all of you, I want to thank you for joining us at this annual gathering, which reaffirms America as a pilgrim people and a nation of faith.

Every one of us, I believe, has a task appointed for us by the Lord. We are reminded, ''Whatsoever thy hand findeth to do, do it with thy might.'' A teacher should teach with all his heart, a parent should care for her child as if all heaven were watching, a machinist should take the utmost pride in a job well done, because all of us are asked by God to devote our daily work to others and to his glory. All of us have a chance to be made great, not by our achievements measured in the world's eyes, but through our commitment to a path of righteousness and to one another.

I also believe our nation has a task appointed for it by the Lord. As the Gospel says, ''Let your light so shine before men that they may see your good works and glorify your Father, which is in heaven.'' Though our founders separated Church and State, they never forgot that this eternal spiritual light illuminated the principles of democracy, and especially the idea of the preciousness and equality of every human being. The truth that underlies the Constitution is that every human being, no matter how rich or how poor, how powerful or how frail, is made in God's holy image and must be treated accordingly.

We have seen, especially in this century, how dangerous and destructive the world becomes when individuals, nations, and leaders forget this eternal truth. Without it, the door to evil is wrenched open, wreaking untold misery on the human race; demagoguery and cruelty, racial hatred and totalitarianism may enter unchecked.

When we understand our real nature and responsibility as true sons and daughters of the living God, it does not mean we retreat from the world, even though all of us know how hard the world can be on our ideals. Rather, God asks us to more forward into human institutions and, instead of conforming ourselves to them, change them for the better, doing our best to listen to the small, still voice that should guide us.

A little farther in that part of Romans, in a different translation, is a passage that has always meant a lot to me: ''Do not be conformed to this world, but be transformed by the renewing of your mind, so that you may discern what is the will of God, what is good and acceptable and perfect. Let love be genuine. Hate what is evil. Hold fast to what is good. Live in harmony with one another. Do not be haughty, but associate with the lowly. Do not claim to be wiser than you are. Do not repay anyone evil for evil, but take thought for what is noble in the sight of all.''

An old folk tale says there are two ways to warm yourself when it is very cold. One is by putting on a luxurious coat; the other is by lighting a fire. The difference is that the fur coat warms only yourself, while the fire lights anyone who comes near.

We have a comparable choice every day. Indeed, we are at a moment of great spiritual opportunity to choose right. The end of the millennium is drawing near, so let us carry no spiritual debts into a new time, but recommit to a future where we elevate mankind's faith and fill the world with justice. (Applause.)

Representative LARGENT. Thank you, Mr. Vice President.

I was joking with the Vice President earlier that the prayer breakfast is on Thursday, but his prayers were answered earlier in the week when Mr. Gephardt pulled out of the presidential primary. (Laughter.)

It gives me great honor to introduce our speaker this morning, Mr. Max Lucado. Max is probably best known as a best-selling author, having 11 million books in print. Although I have read many of his books, the one that truly touched me the most has been one of his children's books called ''You Are Special.'' I have given this book to several friends and have read it aloud on various occasions, especially when I speak with young people. When I was asked to choose a speaker this morning, I immediately thought of Max, because I am convinced that someone who writes the way he writes knows a great deal about the unconditional love of God. So, Max, please come and share with us what is on your heart this morning. (Applause.)

Mr. LUCADO. Mr. President and Mrs. Clinton, Mr. Vice Presdient. I cannot thank you enough for this wonderful privilege that you have given me and my wife, Denalyn, to be with you this morning. Thank you, Congressman Largent, for those kind words.

I never quite know how people respond to those of us who write. Not long ago I was speaking at a conference and a man came up to me afterwards and said, ''I've never had dinner with an author before.'' And I said, ''Well, you buy, I'll eat.'' (Laughter.) So off we went and had a delightful chat. Some days later I received a note from him in which he said, ''I thoroughly enjoyed our visit, but you were not as intelligent as I thought you would be.'' (Laughter.) You can't please everyone.

I will do my best to keep my remarks brief. Not long ago I was speaking and a man got up in the middle of my presentation and began walking out. I stopped everything and I said, ''Sir, can you tell me where you're going?'' He said, ''I'm going to get a haircut.'' I said, ''Why didn't you get one before you came in?'' He said, ''I didn't need one before I came in.'' (Laughter.)

I have asked several people associated with the breakfast why the invitation came my way. The answer that really made most sense was the briefest one, and that is, ''We thought you might share a few words about Jesus,'' a request I am privileged to attempt to fulfill.

The final paragraph on the invitation that we received defines the National Prayer Breakfast as ''a fellowship in the spirit of Jesus.'' How remarkable that such an event even exists. It speaks soNo highly of you, or leaders, that you would convene such a gathering and clear times out of your very busy schedules to attend such a gathering, not under any religious or political auspices, but in the spirit of Jesus. Thank you for that during these dramatic hours you have made prayer a priority.

This breakfast speaks highly of you, our guests. You weave a tapestry this morning of 160 different nations, traditions and cultures, representing a varity of backgrounds but united by a common desire to do what is right for your people. And you are welcome here. Each and every one of you are welcome.

The breakfast is a testimony to you, our leaders, to you, our guests, but most of all, wouldn't you agree?, the breakfast is a testimony of Jesus of Nazareth. Regardless of our perception and understanding and opinion of him, how remarkable that 2,000 years after his birth, we are gathered to consider this life, a man of humble origins, a brother to the poor, a friend of sinners and the great reconciler of people.

It is this last attribute of Jesus I thought we could consider for just a few moments, his ability to reconcile the divided, his ability to deal with contentious people. After all, don't we all deal with people and don't we all know how contentious they can be? How does that verse go? ''To live above with those we love, O, how that will be glory. But to live below with those we know, now, that's another story.'' (Laughter.)

I found this out in college when I found a girl whom I really liked and I took her home to meet my mom, but my mom didn't like her, so I took her back. (Laughter.) I found another girl I really liked, and so I took her home to meet my mom, but mom didn't like her either. So I took her back. I found another girl, took her home. Mom didn't like her. I went through a dormitory full of girls—(laughter)—until finally I found one that I knew my mom would like because she looked just like my mom. She walked like my mom. She talked like my mom. So I took her home, and my dad could not stand her. (Laughter.)

People are tough to deal with. But tucked away in the pages of the Bible is the story of Jesus guiding a contentious group through a crisis. If you will turn your attention to the inside of your program that you received, you will read the worlds written by a dear friend of Jesus, the apostle John. And he tells us this story:

''Jesus knew that the Father had put all things under his power and that he had come from God and was returning to God. So he got up from the meal, he took off his outer clothing, he wrapped a towel around his waist. After that he poured water into a basin and began to wash his disciples' feet, drying them with the towel that was wrapped around him. He came to Simon Peter, who said to him 'Lord, are you going to wash my feet?' And Jesus replied, 'You do

not realize what I am doing, but later you will understand.' :'No,' said Peter. 'You shall never wash my feet.' And Jesus answered, 'Unless I wash your feet, you have no part with me.' 'Then, Lord,' Simon Peter replied, 'not just my feet, but my hands and my head as well.'"

It is the final night of Jesus' life, the night before his death, and Jesus and his disciples have gathered for what will be their final meal together. You would think his followers would be sensitive to the demands of the hour, but they are not. They are divided. Another follower by the name of Luke in his gospel writes these words: ''The disciples began to argue about which of them was the most important.'' Can you imagine? The leader is about to be killed and the followers are posturing for power. This is a contentious group.

Not only are they contentious, they are cowardly. Before the night is over, the soldiers will come and the followers will scatter, and those who sit with him at the table will abandon him in the garden. Can you imagine a more stressful evening—death threats on one side and contentious and quarrelsome followers on the other? I suppose some of you can. That may sound like a typical day at the office. But we know that the response of Jesus was not at all typical.

But I wonder what our response would be. Perhaps we would preach a sermon on team work, maybe point a few fingers or pound a few tables. That is probably what we would do. But what does Jesus do? How does he guide a divided team through a crisis? He stands and he removes his coat and he wraps a servant's towel around his waist. He takes up the wash basin and he kneels before one of his disciples. Unlacing a sandal, he gently lifts the disciple's foot and places it in the wash basin, covers it with water and begins to clean it. One by one, Jesus works his way down the row, one grimy foot after another. He washes the feet of his followers.

By the way, I looked for the verse in the Bible that says Jesus washed all of the disciples' feet except the feet of Judas, but I could not find it. The feet of Judas were washed as well. No one was excluded.

You may be aware that the washing of feet was a task reserved not just for the servants but for the lowest of servants. Every group has its pecking order, and a group of household servants was no exception. And whoever was at the bottom of that pecking order was the one given the towel and the one given the basin. But in this case, the one with the towel and the one with the basin is the one whom many of us esteem as the creator and king of the universe. What a thought. Hands which shaped the stars, rubbing dirt; fingers which formed mountains, massaging toes. And the one before whom all nations will one day bow, kneeling before his friends, before his divided and disloyal band of friends.

It is important to note that Jesus is not applauding their behavior. He is not applauding their actions. He simply chooses to love them and respect them, in spite of their actions. He literally and symbolically cups the grimiest part of their lives in his hands and cleanses it with forgiveness. Isn't this what this gesture means? To wash someone's feet is to touch the mistakes of their lives and cleanse them with kindness. Sometimes there is no other option. Sometimes everything that can be said has been said. Sometimes the most earnest defense is inadequate. There are some conflicts, whether in nations or in homes, which can only be resolved with a towel and a basin of water.

''But Max,'' you might be saying, ''I'm not the one to wash feet. I've done nothing wrong.'' Perhaps you have done nothing wrong. But neither did Jesus. You see, the genius of Jesus' example is that the burden of bridge-building falls on the strong one, not on the weak one. It is the one in the right who takes the initiative.

And you know what happens? When the one in the right volunteers to wash the feet of the one in the wrong, both parties end up on their knees. For don't we always think we are right? We kneel to wash feet only to look up and see our adversary, who is kneeling to wash ours. What better posture from which to resolve our differences?

By the way, this story offers a clear picture of what it means to be a follower of Jesus. We have allowed the definition to get so confusing. Some think it has something to do with attending a certain church or embracing a particular political view. Really it is much simpler. A follower of Jesus is one who has placed his or her life where the disciples placed their feet—in the hands of Jesus. And just as he cleansed their feet with water, so he cleanses our mistakes with forgiveness.

That is why followers of Jesus must be the very first to wash the feet of others. Jesus goes on to say, ''If I, your Lord and master, have washed your feet, you also should wash one another's feet. I did this as an example so that you should do as I have done for you.''

I wonder what would happen if we accepted this challenge, if we followed Jesus's example. What if we all determined to resolve conflict by the washing of feet? If we did, here is what might occur. We would listen, really listen, when people speak. We would be kind to those who curse us and quick to forgive those who ask our forgiveness. We would be more concerned about being fair than being noticed. We would not lower our God-given standards, nor would we soften our hearts. We should keep our minds open, our hearts tender and our thoughts humble. And we would search for and find the goodness that God has placed within each person, and love it.

Would our problems be solved overnight? No. Jesus's were not. Judas still sold out and the disciples still ran away. But in time—in fact, in short time—they all came back and they formed a nucleus of followers who changed the course of history. And no doubt they must have learned what I pray we learn this morning: that some problems can only be solved with a towel and a basin of water.

Let's pray together. Our Father, you have taught us that the line between good and evil does not run down geographical or political boundaries but runs through each of our hearts. Please expand that part of us which is good and diminish that part of us which is evil. Let your great blessings be upon our President and his family, our Vice President and his family, and all of these leaders and dignitaries gathered. But we look to you as the ultimate creator, director and author of the universe. Lead us to someone today whose mistakes we might touch with kindness. By your power we pray. Amen. (Applause.)

Representative LARGENT. Thank you, Max. At this time I want to make one other brief introduction, and that is the new Speaker of the House of Representatives, my friend from Illinois, Denny Hastert. (Applause.)

I want to say it is my privilege and high honor to at this time introduce the President of the United States, Mr. William Jefferson Clinton. (Applause.)

President CLINTON. Thank you very much.

Steve, distinguished head table guests, to the leaders from around the world who are here, the members of Congress, Mr. Speaker and others, ladies and gentlemen.

I feel exactly the way I did the first time I ever gave a speech as a public official, to the Pine Bluff Rotary Club Officers Installation Banquet in January of 1977. The dinner started at 6:30. There were 500 people there. All but three were introduced; they went home mad. (Laughter.) We had been there since 6:30. I was introduced at a quarter to 10. The guy that introduced me was so nervous he did not know what to do, and, so help me, the first words out of his mouth were, ''You know, we could stop here and have had a very nice evening.'' (Laughter.) He did not mean it the way it sounded, but I do mean it. We could stop here and have had a very wonderful breakfast. You were magnificent, Max. Thank you very much. (Applause.)

I did want to assure you that one of the things that has been said here today repeatedly is absolutely true. Senator Hutchison was talking about how when we come here, we set party aside, and there is absolutely no politics in this. I can tell you that is absolutely so. I have had a terrific relationship with Steve Largent, and he has yet to vote with me the first time. (Laughter.) So I know there is no politics in this prayer breakfast. (Laughs.)

We come here every year. Hillary and I were staying up kind of late last night talking about what we should say today and who would be here. I would like to ask you to think about what Max Lucado said in terms of the world we live in, for it is easier to talk about than to do, this idea of making peace with those who are different from us.

We have certain signs of hope, of course. Last Good Friday in Northern Ireland, the Irish Protestants and the Irish Catholics set aside literally centuries of distrust and chose peace for their children.

Last October, at the Wye Plantation in Maryland, Chairman Arafat, Abu Mazin and the Palestinian delegation, and Prime Minister Netanyahu and the Israeli delegation went through literally sleepless nights to try to save the peace process in the Middle East and put it back on track.

Throughout this year, we have worked with our allies to deepen the peace in Bosnia, and we are delighted to have the leader of the Republika Srpska here today. We are working today to avoid a new catastrophe in Kosovo, with some hopeful signs.

We also have worked to guarantee religious freedom to those who disagree with all of us in this room, recognizing that so much of the trouble in the world is rooted in what we believe are the instructions we get from God to do things to people who are different from us. And we think the only answer is to promote religious freedom at home and around the world.

I want to thank all of you who helped us to pass the Religious Freedom Act of 1998. I would like say a special word of appreciation to Dr. Robert Seiple, the former head of World Vision, who is here with us today. He is now America's Ambassador at Large for International Religious Freedom. Later this month, I will appoint three members to the United States Commission on International Religious Freedom. The Congress has already nominated its members.

We know that is a part of it. But, respectfully, I would suggest it is not enough. As we pray for peace, as we listen to what Max said, we say, well, of course it is God's will. But the truth is, throughout history, people have prayed to God to aid them in war. People have claimed repeatedly that it was God's will that they prevail in conflict. Christians have done it at least since the time of the crusades. Jews have done it since the times of the Old Testament. Muslims have done it from the time of the Essenes down to the present day. No faith is blameless in saying that they have taken up arms against other faiths, other races, because it was God's will that they do so. Nearly everybody would agree that from time to time, that happens over the long course of history.

I do believe that, even though Adolf Hitler preached a perverted form of Christianity, God did not want him to prevail. But I also know that when we take up arms or words against one another, we must be very careful in invoking the name of our Lord.

Abraham Lincoln once said that in the great Civil War neither side wanted war and both sides prayed to the same God; but one side would make war rather than stay in the union, and the other side would accept war rather than let it be rent asunder, so the war came. In other words, our great president understood that the Almighty has his own designs and all we can do is pray to know God's will.

What does that have to do with us? Martin Luther King once said we had to be careful taking vengeance in the name of God, because the old law of ''an eye for an eye leaves everybody blind.''

And so today, in the spirit in which we have been truly ministered to today, I ask you to pray for peace in the Middle East, in Bosnia and Kosovo; in Northern Ireland, where there are new difficulties. I ask you to pray that the young leaders of Ethiopia and Eritrea will find a way to avoid war. I ask you to pray for a resolution of the conflicts between India and Pakistan. I ask you to pray for the success of the peace process in Colombia, for the agreement made by the leaders of Ecuador and Peru, for the ongoing struggles to make the peace process work in Guatemala.

I ask you to pray for peace. I ask you to pray for the peacemakers; for the Prime Minister of Albania; for the Prime Minister of Macedonia; who are here. Their region is deeply troubled. I ask you to pray for Chairman Arafat and the Palestinians; for the government of Israel; for Mrs. Leah Rabin and her children, who are here, for the awful price they have paid in the loss of Prime Minister Rabin for the cause of peace. I ask you to pray for King Hussein, a wonderful human being, the champion of peace who, I promise you today, is fighting for his life mostly so he can continue to fight for peace.

Finally, I ask you to pray for all of us, including yourself; to pray that our purpose truly will reflect God's will; to pray that we can all be purged of the temptation to pretend that our willfulness is somehow equal to God's will; to remember that all the great peacemakers in the world in the end have to let go and walk away, like Christ, not from apparent but from genuine grievances. If Nelson Mandela can walk away from 28 years of oppression in a little prison cell, we can walk away from whatever is bothering us. If Leah Rabin and her family can continue their struggle for peace after the Prime Minister's assassination, then we can continue to believe in our better selves.

I remember on September the 19th, 1993, when the leaders of Israel and the Palestinian Authority gathered in Washington to sign the peace accord, the great question arose about whether, in front of a billion people on international television, for the very first time, Chairman Arafat and Prime Minister Rabin would shake hands.

Now this may seem like a little thing to you. But Yitzhak Rabin and I were sitting in my office talking, and he said: ''You know, Mr. President, I have been fighting this man for 30 years. I have buried a lot of people. This is difficult.'' And I started to make an argument, and before I could say anything, he said, ''But you do not make peace with your friends.'' And so the handshake occurred that was seen around the world.

A little while afterward, after some time passed, they came back to Washington. And they were going to sign these agreements about what the details were of handling over Gaza and parts of the West Bank. On this second signing, the two of them had to sign three copies of these huge maps, books of maps. There were 27 maps. There were literally thousands of markings on these maps, on each page: ''What would happen at every little cross road? Who would be in charge? Who would do this, who would do that, who would do the other thing?'' Right before the ceremony there was a hitch, and some jurisdictional issue was not resolved. Everybody was going around in a tizzy. I opened the door to the little back room, where the Vice President and I have lunch once a week. I said to these two people, who shook hands for the first time not so long ago: ''Why don't you guys go in this room and work this out? This is not a big deal.'' Thirty minutes later they came out. No one else was in there. They worked it out; they signed the copies three times, 27 pieces each, each page they were signing. And it was over.

You do not make peace with your friends, but friendship can come, with time and trust and humility, when we do not pretend that our willfulness is an expression of God's will.

I do not know how to put this into words. A friend of mine last week sent me a little story our of Mother Teresa's life. She was asked, ''When you pray, what do you say to God?'' And she said, ''I don't say anything; I listen.'' And then she was asked, ''Well, when you listen, what does God say to you?'' And she said, ''He doesn't say anything either; he listens.'' (Soft laughter.)

In another way, Saint Paul said the same thing. ''We do not know how to pray as we ought, but the Spirit himself intercedes for us, with signs too deep for words.''

So I ask you to reflect on all we have seen and heard and felt today. I ask you to pray for peace, for the peacemakers, and for peace within each of our hearts—in silence.

(Moment of silence.) Amen.

(Applause.)

Representative LARGENT. Thank you Mr. President, for your remarks. You have asked us to pray for the leaders of the world and for leadership in the world. And at this time, I would like to ask my friend, Representative Harold Ford, to come forward to pray for world leaders.

Representative FORD. Thank you, Steve.

We pray, God, that you will help us to understand what the book of Ephesians means when it says, ''We wrestle not against flesh and blood but against principalities and powers.'' We pray that we may heed the ancient summons, pray as if everything depended on God and act as if everything depended on you. Whether we worship in the shadow of the cross, under the Star of David or the crescent of Islam, it is in this spirit that we gather and in this spirit that we pray. We pray that God be above us to protect, beneath us to uphold, before us to guide and around us to comfort. We offer these prayers in the name of one God of all humanity. Let all of God's children say amen. (Applause.)

Representative LARGENT. Thank you, Harold. One of the real mysteries of the power of Jesus is that, Mr. President, as you said, I may not have voted with you in the four years that I have been in Congress, but I want you to know that I care for you and love you. That is part of the mystery of Jesus and the celebration that we have here this morning as we come to pray for our leaders and for our world.

At this time I would to ask Senator Lieberman to come forward and lead us in our benediction. (Applause.)

Senator LIEBERMAN. Thank you. Let us pray.

I pray, Lord, that you will open my lips, that I may declare your praise. We love you, Lord, because we come before you with a perfect faith that you will hear our prayer. And we have that faith not because of our confidence in our righteousness but because of our trust in your mercy.

Lord, thank you for waking us up this morning, restoring our souls to our bodies, bringing us to this place, but the destination we seek is a unified one, Lord, and it is you. You are the source of our lives, of our principles, of our purpose. We thank you for all that you have done for us. And as the President said so beautifully and compellingly and truthfully, for reasons that only impress us with our imperfection, so often our attempts to reach you have divided us.

But today, the spirit in this room is yours; in the Hebrew, Shekinah, the spirit of God, is here and it brings us together in a characteristically American way, in a way that the founders of this country understood, and they expressed in the very first paragraph by which they declared their independence that they held certain truths to be self-evident and that the first of these was that the rights they were granting us came from you; they were not the work of philosophers or lawers or politicians, but were the endowment we received from you, our creator.

Lord, we thank you for the leaders who are here, the speakers who are here who have shared their faith with us. We ask your prayers, especially on the leaders of our country, the President and Vice President and their devoted and gifted wives. We pray particularly today for the President of the United States. We thank you for the gifts you have given him of intellect, of judgment, of compassion, of communication, that have enabled him to be such a successful leader of our country and have raised up so many people in this country to a better life and have brought him to a point where people around the world depend on him, put their hopes in him.

And Lord, may I say a special prayer at this time of difficulty for our President, that you hear his prayers, that you help him in the work he is doing with his family and his clergy, that you accept his atonement in the spirit in which David spoke to the prophet and said, ''I am distressed. Let me put my faith not in human hands but in the hands of God, who is full of abundant mercy.''

So, Lord, we pray that you will not only restore his soul and lead him in the paths of righteousness for your name's sake, but help us join with him to heal the breach, begin the reconciliation and restore our national soul so that we may go forward together to make this great country even greater and better.

And I pray, Lord, too, for all the leaders from around the world who are here. And in the spirit that the President himself invoked, I want to reach out particularly to Chairman Arafat and Abu Mazin and Leah Rabin and her children, and to do so in the spirit of unity that fills this room, but also in the recollection and remembrance of the truth, that Abraham, with whom you entered the covenant that gave birth to at least three of the great religions that are here today, that Abraham loved his son Ishmael as he did his son Isaac. And we pray that you will bring that truth to Chairman Arafat and the leaders of Israel and you will guide them in the paths of peace so that their children and grandchildren may truly one day not just live in peace but sit together, as Dr. King evoked in all of us, at the table of brotherhood and sisterhood.

So, Lord, as we leave this place, we pray that you will take us by the hand and lead us home, but let us not leave here the spirit of unity and purpose that has filled this room. Let us resolve, each of us in our own way, to work to honor your name, to bring us closer each day to the realization of the prophet's vision, ''when the valleys will be exalted and the hills and mountains made low, when the

rough spots will be made straight and the glory of the Lord will fill the earth, and all flesh will see it and experience it.'' On that day, Lord, your name will truly be one and your children will be one.

Amen. (Applause.)

Representative LARGENT. Thank you, Senator Lieberman.

Ladies and gentlemen, this concludes the 47th National Prayer Breakfast.

Thank you all for being with us here this morning. Let's leave today and live out the principles Jesus taught about loving one another, loving our God with all our heart, soul and mind. Thank you, and have a good morning.

ACCREDITATION OF THE OAK PARK FIRE DEPARTMENT

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. DAVIS of Illinois. Mr. Speaker, on August 26, 1999 the Village of Oak Park Fire Department was awarded the title ''Accredited Fire Department'' by the Commission on Fire Accreditation International (C.F.A.I.).

The Oak Park Fire Department is only the third fire department in the State of Illinois and one of only 21 departments in the United States and Canada to achieve such accreditation.

Fire Chief Gerald Beeson and the other members of the department worked to complete their application for over 2 years.

Chief Beeson told the Wednesday Journal, ''Those who review applications—members of the International Association of Fire Chiefs and the International Association of City and County Managers—look at all facets of fire service, including departmental aspects like training and response time and on the village side like finances and codes.''

The accreditation is a benchmark, a set of standards, Oak Park can use to judge the quality of their fire protection service. The departmental achievement is a credit to all of Oak Park's fire fighters and we salute them for their outstanding accomplishment.

THE TENTH ANNIVERSARY OF THE FALL OF THE BERLIN WALL, THE PEOPLE OF BELARUS ARE STILL BEING OPPRESSED BY AUTHORITARIAN DICTATOR

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. GEJDENSON. Mr. Speaker, I rise to introduce a resolution on the gravity of the political and economic situation in Belarus. I believe it's time for U.S. Congress to express strong opposition to the continued egregious violations of human rights and the lack of progress toward the establishment of democracy and the rule of law in Belarus and call on President Alexandr Lukashenka to engage in negotiations with the representatives of the opposition and to restore the constitutional rights of the Belarusian people.

While the U.S. and Europe are marking the 10 year anniversary of the fall of the Berlin Wall, President Lukashenka is building a new wall between Belarus and democracy and trying to isolate Belarus by using old Soviet and Stalinist tactics of misinformation and intimidation. The people of Belarus have experienced a great deal of suffering over the years—as the victims of the Nazis, of Stalin, and of the Chernobyl disaster. I visited Belarus several months ago and it is clear to see that the people of Belarus are still getting a bad deal—again at the hands of their leadership.

In the fall of 1996, President Lukashenka used bogus tactics to impose a new constitution on Belarus, to abolish the existing parliament and replace it with a rubber-stamp legislature, and to illegally extend his presidential term. Although Lukashenka says that his government is willing to enter into negotiations with the opposition, his actions indicate the opposite. Lukashenka has created a climate of fear in Belarus, along the lines of Stalin's and Hitler's regimes, which he admires. He has targeted the opposition, non-governmental organizations, and the independent media. Opposition figures have disappeared; independent newspapers are fighting for survival; and those Belarusians who are brave enough to publicly protest Lukashenka's rule, get thrown into prison on trumped up charges.

Lukashenka is pushing his country deeper and deeper into an economic abyss. Prices remain under state control, and there has been no privatization to speak of. The average monthly wage is somewhere around $30 a month, and many people rely on subsistence farming in a backyard plot to feed their families.

We in the U.S. Congress have a moral responsibility to promote democracy and support economic development in Belarus. This resolution condemns the current Belarusian regime and calls for immediate dialogue between President Lukashenka and the Consultative Council of Belarusian opposition and the restoration of a civilian, democratically-elected government in Belarus, based on the rule of law, and an independent judiciary. The resolution urges President Lukashenka to respect the human rights of all Belarusian citizens, including those members of the opposition who are currently being illegally detained in violation of their constitutional rights.

President Lukashenka must make good on his promise to hold free parliamentary elections in 2000 and presidential elections in 2001. Please join me in supporting this resolution.

H.R. 3116, THE FAIR COMPETITION IN FOREIGN COMMERCE ACT

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. KOLBE. Mr. Speaker, for decades the United States has carried the standard in promoting democracy, market liberalization, and economic development abroad. To further those goals, we have spent literally billions of dollars in developing countries. And we have made progress. Nations have made economic progress over the past few decades and democracy is taking root in some of the rockiest soil in the globe. Thanks to the creation of the World Trade Organization a few years ago, the vast majority of international trade is now governed by clear and transparent rules.

But, as the Asian financial crisis and the theft of billions of dollars of IMF money in Russia shows, we still have a long way to go. Too many places in the world continue to be held in the grip of corruption and cronyism. The obvious impact of these two evils are the loss of untold millions, even billions, of dollars. But the corrosive effects of corruption and cronyism are worse; they are all too often hidden and ignored.

Government corruption undermines the rule of law—the very cornerstone of democracy. Government corruption undermines economic development, squandering billions of dollars of investment capital on enrichment of the few rather than the benefit of many. Government corruption undermines the ability of U.S. business to compete freely and fairly for foreign government contracts, costing U.S. corporations millions of dollars in lost sales. Government corruption undermines the integrity of public service and erodes the confidence of the public in their own government. Most important, government corruption steals hope—the hope for a better future that all citizens of the world have a right to expect. If nurturing democracy and expanding economic opportunity continue to be a goal of this country, then eliminating corruption and cronyism in government procurement must also be a priority. That is why I am proud to join with my colleague, ROBERT MATSUI in introducing H.R. 3116, the Fair Competition in Foreign Commerce Act. This legislation builds upon the excellent work of the Organization on Economic Development and Cooperation which set the international standard with its Agreement on Bribery and Corruption. The agreement makes it a crime to offer, promise or give a bribe to a foreign public official in order to obtain or retain international business deals. Sadly, there are today only thirty-four signatory countries to this agreement.

H.R. 3116 complements the work of the OECD, particularly that of the Development Assistance Committee Recommendation on Anti-Corruption Proposals for Aid-Funded Procurement, approaches the problem of corruption in international government Procurement through U.S. foreign aid and multilateral financial institutions, It is not a club or a blunt instrument, but its says in no uncertain terms that the United States will not continue to underwrite corrupt practices in other countries.

Our bill requires the Secretary of the Treasury to develop a plan to promote international government procurement reforms using U.S. participation in international as the tool. It prohibits U.S. non-humanitarian foreign assistance to nations that have not demonstrated significant progress towards institutionalizing open and transparent government procurement practices.

We want to assist the administration's efforts to promote government procurement transparency, whether through the World Trade Organization or the Free Trade Area of the Americas. But we also want to ensure that transparency in government procurement doesn't take a back seat—that is why we require the administration and other nations to focus on institutionalizing open and transparent international government procurement practices.

The key to the legislation is building institutions in countries which promote and protect

transparency in government procurement activities. We want nations to develop the institutional capacity needed to properly monitor international government procurement contracts. Where nations lack such capacity, we encourage the use of third-party procurement monitoring to ensure openness and transparency in the process. Third-party procurement monitoring is a process where an uninvolved third-party is hired to monitor every stage of the procurement process. The procedure has been used successfully in South America and Africa to fight corruption in international government procurement. Third-party procurement monitors have the expertise needed to ensure that a project is competitively bid and effectively executed. In turn, this expertise gets passed on to the host governments, which further institutionalizes open procurement practices. The goal should be a process free from cronyism and corruption. This legislation will help us accomplish that goal.

RECOGNIZING THE WORK OF THE AIR LAND EMERGENCY RESOURCE TEAM

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. SAM JOHNSON of Texas. Mr. Speaker, I would like to bring to the Congress' attention seven young men and the members of the Joseph Rankin family who sacrificed time and effort to serve the people of Russia from July 10–August 25, 1999, by remodeling an orphanage in Moscow to improve living conditions. In addition to the joy they received from investing in the lives of others, this cross-cultural experience gave these individuals a greater appreciation for the benefits and privileges we enjoy in America. These individuals are to be commended for their willingness to put the needs of others before their own.

Daniel Buhler, MI; Michael Hadden, GA; Jesse Long, WA; Timothy Moye, GA; Joseph Rankin, MI; Joyce Rankin, MI; Benjamin Rankin, MI; Daniel Rankin, MI; Joseph Rankin, MI; Justin Tanner, MI; Jefferson Turner, GA; Neil Waters, VA.

CAMPAIGN FINANCE REFORM MISSES IMPORTANT TARGET

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. BEREUTER. Mr. Speaker, this Member highly commends to his colleagues this editorial I submit from the November 1, 1999, Norfolk Daily News regarding campaign finance reform. The editorial rightly notes that campaign finance reform must address the use of union dues (regardless of the union member's wishes) for political contributions.

[From the Daily News, Nov. 1, 1999]

REFORM MISSES IMPORTANT TARGET

CAMPAIGN FOR NEW RESTRICTIONS FAILS TO PUT FOCUS ON MAJOR SOURCE OF PROBLEMS

At the same time as the McCain-Feingold proposal aimed at changing rules of campaign financing was being defeated in the U.S. Senate, a major endorsement aimed at influencing the 2000 election results was taking place. Its unsurprising results bear on the issue, inaccurately described as ''reform,'' since that term implies beneficial change, not cosmetic change.

McCain-Feingold's aim was to reduce the ''soft money'' contributions by which unlimited amounts may be given to political parties—not individual candidates—for advancing their views on major issues of the day. It is a contrast to the $1,000 individual contribution limits, never adjusted for inflation, which can be provided directly to candidates.

Bearing on this issue is the way in which some organizations, notably the AFL–CIO, can support their favored candidates with endorsements, publicity and in-house politicking with little regard for financing limitations.

The recent AFL–CIO endorsement of Vice President Al Gore's bid for the Democratic nomination was not unanimous, and it lacked important initial support from two of the major affiliates, the Teamsters Union and the United Auto Workers. They are likely to check in later. But that endorsement kicked into gear a $40 million union mobilization for the primaries and the general election. It is ''soft money'' but vital support—in part provided in violation of the rights of that apparent minority of union members which may want Bill Bradley as the nominee, or as an extreme example, members who might even choose a Republican.

The unions have every right to back whatever candidates they choose. They do not have the right, however, to spend mandatory dues money that was supposed to have been allocated to collective bargaining and the more restricted cause of improving the status of union workers.

Being forced, through mandatory fees, to support candidates and causes with which one disagrees is a violation of a fundamental tenet of a free society. The U.S. Supreme Court has addressed the issue and reached that conclusion. But it is one of several glaring cases of disregard for the law that the Clinton administration has ignored the principle. Without enforcement of that rule, any ''reforms'' of the current flawed campaign financing laws are worthless. Nothing wrong with unions spending big bucks for politics as long as the money is openly provided and comes from willing donors. Nothing wrong, either, with like amounts coming from readily identifiable business or other organizations operating under the same terms.

But let them use these resources openly to win friends and influence elections, and understand that true reform depends on voluntary contributions.

REAL ESTATE FLEXIBILITY ACT OF 1999

HON. JIM McCRERY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. McCRERY. Mr. Speaker, today I am introducing legislation, the Real Estate Flexibility Act of 1999, to remove a present-law tax penalty that confronts individual real estate investors who wish to sell debt-encumbered property.

This legislation is important to our Nation's real estate markets. It would provide real estate investors with flexibility in managing tax liabilities while at the same time allowing debt-strapped property to be put to its highest and best use.

An example will help to illustrate the need for this legislation. Assume that an individual investor owns commercial investment real property that is valued at $100 and that is encumbered by debt of $90. The individual's basis in the property is zero. Assume that the individual wishes to enter the residential real estate market and that a buyer offers to purchase his commercial property for fair market value. Under the terms of the transaction, the buyer will assume the $90 of debt and will pay the individual $10 in cash.

Under current tax law, the individual will be taxed not only on the cash received, but also on the discharged debt. In this case, the tax paid by the individual on the sale—as much as $25 in this case (taking into account tax on unrecaptured depreciation)—will exceed the $10 in cash the individual actually receives. Thus, selling the property would force the individual to come up with cash out of pocket to pay the IRS.

In light of this disincentive, many individuals in this situation do not sell. Rather, they sit and hold. As a result, the underlying property does not pass into the hands of new owners who may be more likely to make improvements and put the property to its highest and best use.

In these circumstances, I believe an individual taxpayer should be given flexibility to pay this tax liability when he or she has the necessary cash. The Real Estate Flexibility Act of 1999 would allow individuals wishing to sell debt-encumbered property to elect to pay tax on the sale only to the extent of the cash received; the individual would have to reduce basis in other property to the extent that gains are not taxed. In our example, the individual would pay tax of $10—i.e., the amount of the cash actually received—upon disposition of the commercial real estate and would reduce his or her basis in other depreciable property by the amount of untaxed gain on the commercial property.

I ask my colleagues to join me in supporting this important legislation.

CONGRATULATORY REMARKS TO THE FOSTER GRANDPARENT PROGRAM OF SOUTHEAST MISSOURI FOR 26 YEARS OF SERVICE TO PUBLIC EDUCATION

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mrs. EMERSON. Mr. Speaker, I'd like to take this opportunity to commend the Foster Grandparent Program of Southeast Missouri for recently completing its 26th year serving the senior citizens in the communities of East Prairie, Poplar Bluff, and Sikeston, Missouri.

The Foster Grandparent Program of Southeast Missouri has had a tremendous impact on the senior citizens who serve as mentors to at-risk children in local elementary schools. This program serves as a way for these mentors to be significant change-agents in their communities during their golden years.

In addition to providing an opportunity for seniors to feel a sense of self-worthy and responsibility within the community, let me also share with you some stories from teachers who have seen first-hand the tremendous impact of the Foster Care Program.

One teacher from Mark Twain Elementary School in Sikeston, Missouri, spoke of a boy who suffered from a learning disability but progressed greatly with the help of a foster grandparent. ''With his foster grandma's help, this child has made tremendous progress this year, in spite of his disability. He has changed from a frustrated student who couldn't read or spell to a student who beams because now he can pick up first grade and second grade-level books and read them with fluency. The positive impact that this foster grandparent has had in this student's life with her genuine care and concern, and one-on-one tutoring, cannot really be measured.''

Another teacher spoke of a grandmother who worked one-on-one with several students throughout the school year. ''This woman is such a great asset to our school and my classroom. She fulfills these children's needs in every way possible, not to mention the invaluable assistance she provides me. Without her, I could not give the extra attention to the students with the class size being so large. This grandmother is wonderful and gives the children an extended family while away from home.''

I received dozens of letters from teachers, principals, participants, and mentors in the program, all of whom believe that this program is one of the most rewarding programs within their communities. I cannot emphasize enough the importance of programs like this that realize the potential of senior citizens to make significant contributions to our society, and I congratulate the Foster Grandparent Program of Southeast Missouri for their wonderful efforts over the past 26 years.

INTRODUCTION OF LEGISLATION ADDRESSING NAZI ASSET CONFISCATION

HON. JIM RAMSTAD

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. RAMSTAD. Mr. Speaker, over 50 years ago, Nazi Germany began a systematic process of eliminating an entire race. Over 6 million men, women and children lost their lives in this tragic chapter in human history simply because they were Jewish. They were the ultimate victims.

Others were forced to work as slaves in German factories. Some were subjected to brutal experiments, and others had their assets and belongings stolen from them to be given to those of ''Aryan'' stock or used by the German government in its war effort.

Amazingly, these criminal acts have yet to be settled. The U.S. government is currently involved in negotiations between German companies and Nazi victims here in the U.S. which could lead to compensation for some of the victims.

I believe the companies which profited from their complicity with the Nazi regime and the Holocaust should pay for their actions. It is absolutely appalling that to this day, German banks and businesses have not admitted their role in this theft nor have they returned the fruits of their crimes. It is inexcusable that German banks and businesses continue to deny their obvious guilt and refuse to compensate the victims.

That's why I am introducing legislation today which would allow victims of the Nazi regime to bring suit in U.S. federal court against German banks and businesses which assisted in and profited from the Nazi's Aryanization effort.

My legislation would clarify that U.S. courts do have jurisdiction over these claims and would extend any statute of limitations to 2010.

There are people who say this occurred too long ago and that we should leave these events in the past. I strongly and fundamentally disagree. There must never be a statute of limitations on Aryanization, as genocide and related crimes should always be punished.

These companies need to come forward, open their books and return their criminally-obtained gains to close this open wound on the soul of humanity.

This legislation will right a terrible wrong in the annals of world history, and it's long overdue.

RECOGNIZING TORNADO RELIEF WORKERS

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. SAM JOHNSON of Texas. Mr. Speaker, I want to commend 58 young men who selflessly spent two weeks in Bridge Creek and Midwest City, Oklahoma last spring to help search for missing persons and clear debris in the aftermath of multiple tornadoes. From May 5–21, 1999, these young men served others at their own expense, and through their hard work and willing attitudes they brought encouragement and hope to citizens who had sustained great loss.

Paul Aber, OH; Peter Ackerman, IL; Derek Aloisi, NY; John Baker, OK; Paul Bell, TN; Erik Benson, WI; Shawn Bradley, TN; David Breneman, NM; Jared Busse, MO; Joshua Craymer, MI; Daniel Davies, IN; John Dew, MI; Matthew Field, Australia; Jeremy Flanagan, TX;

David French, CA; Philip George, IN; Edward Harris, TX; Jeremy Hebert, LA; John Hill, IA; Isaac Houser, OH; Jeremy Jansen, KS; Jeffery Jestes, OK; Joshua Koyejo, NJ; Jonathan Kranick, WA; Caleb Lachmann, IN; Joshua Lachmann, IN; Daniel Lamb, CA; Barak Lundberg, WA; Joseph Lyle, IL;

Gregory Mangione, MI; David McKenzie, SC; John Miller, CA; Samuel Mills, TX; Daniel Moulton, OK; Alex Nicolato, OH; Joseph Nix, MI; John Nix, MI; Marc Payant, Quebec; Sean Pelletier, WA; Jadon Rauch, IN; Micah Richmond, OR; Bruce Rozeboom, MI; Robert Shumer, OH;

Ben Sibley, WI; Eric Singer, PA; Mark Stanley, MN; Shane Stieglitz, IN; Jacob Strain, KS; John Tanner, MI; Jeffrey TenBrink, MI; Daryn Thompson, GA; Brian Tuplin, Alberta; Benjamin Vincent, MI; Aaron Waldier, OR; Ryan Ward, OR; Christopher Wilks, CA; Vincent Williams, OK; Joshua Young, CA.

IN MEMORY OF AN OUTSTANDING KENTUCKIAN: PAMELA FARIS BROWN (1942–1970)

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. ROGERS. Mr. Speaker, almost three decades ago a 28-year-old woman set off on an adventure of a lifetime. It was an adventure that would end in heartbreak—an adventure from which she would not return.

At the time of her death Pamela Faris Brown had already made her mark as a nationally recognized actress and entertainer. Years earlier, she had also appeared on Kentucky's political stage—credited with helping to give a boost to the distinguished public service career of her father, John Y. Brown, Sr.

Tragically, however, along with her husband and another companion, Pam perished in September of 1970 while attempting to cross the Atlantic Ocean in a balloon.

I first encountered Pamela Brown in the early 1960's during my last two years of law school, when I served as a clerk for her father's criminal law practice in Lexington, Kentucky. Pamela was a bright, energetic and charismatic young woman whose love of life was only matched by her love of family and friends.

She was born in Lexington on August 26th, 1942, and attended the University of Kentucky and Stephens College before setting out on her performing career. Pamela's skill as an actress took her from 'Shakespeare in the Park' productions in Louisville to the pursuit of her career in New York City. Her mother, Dorothy, issued a warning to the young woman headed for the big city: ''New York will change you,'' she warned, to which Pam replied: ''I'll change New York.''

Pamela Brown did make an impression on New York. She worked her way into a regular role on the television daytime drama 'Love is a Many Splendored Thing' and appeared on highly popular national television programs. She made guest appearances on the Ed Sullivan Show and the Lawrence Welk Show, and performed with Walter Abel in a summer stock production of 'Take Her, She's Mine'.

But Pam's enthusiasm wasn't just limited to the dramatic arts. In 1966, when an illness nearly forced her father to withdraw from his political campaign, Pamela volunteered to appear in his place at speaking engagements. Years later, her father would recall his opponent's campaign manager as saying, ''You didn't beat us. Pamela did.'' Her brother, John Y. Brown, Jr., would also serve as Kentucky's governor.

A spirit like Pamela Brown's is impossible to contain—so was her enthusiasm for the adventure that would eventually claim her life. On Sunday, September 20th, 1970, Pamela and her husband, Rod Anderson, along with their companion, Malcolm Brighton, set off from East Hampton, Long Island, aboard the balloon they called 'The Free Life'. They set out to make history. The following day, the trio encountered a cold front and a driving rainstorm, which forced their craft into the sea.

The famous aviatrix Amelia Earhart perished attempting to set another aviation landmark 62 years ago. Earhart once eloquently explained the spirit that also led Pam to follow her balloon adventure: ''Please know I am quite

aware of the hazards,'' Earhart said. ''I want to do it because I want to do it. Women must try to do things as men have tried. When they fail their failure must be but a challenge to others.''

Today, Pamela Brown's memory lives on at the Actor's Theater of Louisville, whose main stage was named the Pamela Brown Auditorium to honor her. Her memory and her spirit also lives on in the hearts and minds of many of us—friends, family, and fellow Kentuckians, for whom Pamela Brown still is an inspiration.

RECOGNIZING ''BRAVO SAN DIEGO''

HON. BRIAN P. BILBRAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. BILBRAY. Mr. Speaker, it is with great pleasure that I rise to bring to the attention of the Congress an event that symbolizes the synergy between the very best of human nature and the very best of human ability.

Too often, Members come to the floor to speak of tragedy, mishap, or malady; so much so, that when future generations look back upon us, it will appear as if our moment in history was consumed solely by the various tempests of our time. It is with this in mind that I bring news of an event to be held in my district of San Diego, California which celebrates the merger between the business community and the arts community, and highlights the philanthropic and community oriented nature of my constituency.

On November 20th, 1999 ''Bravo San Diego'' will being together over 800 arts, business and civic leaders for an evening of arts, food and entertainment. The goal of this event is to raise awareness and funds for the Business Volunteers for the Arts (BVA), a not-for-profit program administered by the Performing Arts League. The BVA provides volunteers from the business community to act as private, voluntary consultants to arts organizations so they may better abide by business protocol and practices, and exact the most efficient use of their resources.

''Bravo San Diego'' will be hosted by Mr. Earl Holding, the owner of the Westgate Hotel, and supported by major sponsorships from Qualcomm, Gateway, Sempra and many other philanthropic-minded San Diego businesses. Additionally, the program will be coordinated by Mr. Georg Hochfilzer of the Westgate and Mr. Rod Appel, producer for the Performing Arts League. Representing the largest gathering of arts and culture ever in San Diego, ''Bravo San Diego'' will showcase the accomplishments and programs of over fifty performing arts organizations and seven museums.

Mr. Speaker, as we pay tribute this month to the impact that arts and culture have on each of our lives, it is important that we also recognize those persons and organizations who will ensure that these vital community needs survive the changing times. Therefore, I extend my most sincere congratulations to the BVA, for their good work, and my most sincere thank you to the men and women who will make ''Bravo San Diego'' a success and example from which the rest of America may learn to support their arts and culture.

INTRODUCTION OF THE MILITARY EXTRATERRITORIAL JURISDICTION ACT

HON. SAXBY CHAMBLISS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. CHAMBLISS. Mr. Speaker, currently, there are instances where American civilians have committed crimes outside the United States but have not been prosecuted because foreign governments decline to take any action and U.S. military or civilian law enforcement agencies lack the appropriate authority to prosecute these criminals. Consequently, only minor administrative sanctions are available to punish serious crimes.

Today, my colleague, Congressman BILL MCCOLLUM, and I are introducing legislation that will close a legal loophole that currently allows civilians accompanying the military outside the United States to avoid prosecution from crimes.

For example, a Department of Defense teacher raped a minor and videotaped the event. The host country chose not to prosecute, and the United States did not have the jurisdiction to prosecute the teacher.

The son of a contractor employee in Italy committed various crimes including rape, arson, assault, and drug trafficking. Because of a lack of jurisdiction to prosecute, the son was simply barred from the base.

A civilian spouse living overseas attacked her active duty husband with a kitchen knife and stabbed him in the shoulder. Although the spouse confessed to aggravated assault, the local national law enforcement agencies declined to prosecute.

A 13-year-old living on an Army base in Germany, sexually molested and raped several other children under the age of ten. German authorities decided not to prosecute. The only punishment for the offender was to be expelled from Germany.

An Air Force employee molested 24 children, ages 9 to 14. Because the host country refused to prosecute, the only recourse was to bar him from the base.

An Overseas Jurisdiction Advisory Committee has recommended to the Secretary of Defense and the Attorney General that this kind of ''legislation is needed to address misconduct by civilians accompanying the force overseas in peacetime settings.'' Both the Department of Justice and the Department of Defense support legislation that will help to maintain order and discipline among our armed forces.

It is time that we close the loophole that allows civilian criminals to escape prosecution of their crimes. The Military Extraterritorial Jurisdiction Act we are introducing today, similar to S. 768 introduced by Senator JEFF SESSIONS and Senator MICHAEL DEWINE, will provide the federal government much greater ability to hold criminals responsible for crimes which they commit and will finally tighten our laws so that criminals do not go unpunished.

TRIBUTE TO SHARON BECK

HON. GREG WALDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. WALDEN of Oregon. Mr. Speaker, I rise today to honor a woman who is nearing the end of her tenure as president of the Oregon Cattlemen's Association. Sharon Beck is a remarkable woman who deserves the appreciation of all of those whose livelihoods depend on their ability to till the soil and raise cattle. She is a woman who has devoted a significant portion of her life to defending the farmers and ranchers of both Oregon and the United States and preserving their rural way of life.

Sharon's election by her peers as president of the OCA is merely one reflection of the respect and admiration she has garnered throughout her years of tireless devotion on behalf of the agricultural community. In 1984 the Beck family was named producers of the year by the Beef Improvement Federation. Sharon and her husband appeared on the cover of Beef Today in 1995. This year her family's farm received the high honor of being named the Oregon Wheat Growers League ''State Conservation Farm of the Year.'' Sharon Beck has received awards from the Oregon Cattlewomen, has twice received the President's award from the Oregon Cattlemen's Association, and was named Union County's ''Agricultural Woman of the Year.'' These awards represent not only Sharon's dedication to agriculture, but also that of her family and especially her husband Bob, who deserves a recognition of his own.

Sharon's son Rob summed up her life of achievement perfectly by noting that her commitment and dedication have allowed her to excel at any endeavor she undertakes, and that no matter what the odds, she is never overwhelmed. That's why farmers and ranchers turn to Sharon in times of trouble. And Mr. Speaker, that's why I rise today to recognize Sharon Beck—a true American rancher and a true friend of mine.

IN PRAISE OF UNCONVENTIONAL GIVING

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. MCCOLLUM. Mr. Speaker, I rise today to draw attention to the excellent and unconventional work accomplished at America's Community Bankers' Annual Convention in Orlando. I say ''unconventional'' because not many of the nation's millions of convention-goers do what America's Community Bankers does.

Each year, ACB and its spouses' organization, Housing Partners, select a charity in their convention city, raise funds for it, and present the group with a check during the convention. On November 2 in Orlando, Housing Partners presented their 1999 charity, Orlando's Edgewood Children's Ranch, with a record donation of $170,000. Over the past 8 years, ACB's Housing Partners has donated more than $700,000 to charities around the country. The money is raised in a variety of ways, including

a craft sale, a golf tournament, a benefit concert, and donations from member banks.

The Edgewood Children's Ranch, a residential child care and development facility that has been helping troubled youngsters and families in the Orlando area for more than 30 years, is one of my favorites in an area blessed with many fine helping organizations. The ranch has been called a ''boot camp with love,'' because of its emphasis on structure, school, and parental involvement.

Although the ranch accepts children from all denominations and races, it expects them to attend chapel, pledge allegiance to the American flag, and respect their elders—activities, to quote Gaby Acks, the ranch's development director, ''that disqualify us for public funds.''

That's why America's Community Bankers' unrestricted gift of $170,000, which represents about one-tenth of the ranch's annual budget, is so important. ''We are ecstatic,'' said Joan Consolver, executive director of the ranch. ''It is unheard of for a convention group to leave a gift like this for the community.''

I recognized America's Community Bankers' unique commitment to community in my remarks at the convention and I was glad that Orlando did as well. Mayor Glenda Hood and Orange County Chairman Mel Martinez both took time from their busy schedules to come to the check presentation ceremony and express the collective thanks of our community. Chairman Martinez said the philanthropic model developed by ACB's Housing Partners ''serves as an example of leadership and community service for other trade associations and conventions.'' He commended them ''for the extraordinary gesture of goodwill and the legacy they have left to our community.'' Mayor Hood proclaimed October 31–November 3, 1999 as America's Community Bankers and Housing Partners Day in Orlando ''in recognition of their philanthropic excellence.''

The Orlando Sentinel ran the following editorial.

BANKERS GIVE BACK TO LOCAL CHILDREN—THEY RAISED $170,000 FOR EDGEWOOD CHILDREN'S RANCH DURING THEIR CONVENTION

People who live near the Edgewood Children's Ranch can drive past it for years without ever knowing it's there. Tucked next to a lake and down the hill from a quiet street off Old Winter Garden Road, the sprawling campus affords a splendid view that few see.

Last week, a Washington, D.C.-based banker's group got the chance to set eyes on the ranch. And its members liked what they saw so much, they raised $170,000 for the 30-year old home for troubled kids, a record for the trade group.

America's Community Bankers picks a city for its convention each year, and every year, its organization of spouses and housing partners hold fund-raisers during the convention. In 1994, the group raised $50,000 for House of Hope, an Orlando-based teen program. Last year, it gave $150,000 to a battered women's shelter in Chicago.

From a popular craft sale to a big, convention-capping concert—this year's featured Frankie Avalon—the fund raising gives spouses a chance to do more than just tag along for golf outings or fancy dinners, said Joan Pinkerton, a spokeswoman for America's Community Bankers.

''People will say to me, 'That's the reason I come to the convention,''' Pinkerton said, ''It's a neat way to tie into the community.'' For the children's ranch, which ekes out an existence on a $1.2 million annual budget and a lot of prayers, the gift is the largest ever that will go to its general fund. We were blown away by the amount,'' said Gaby Acks, children's development director for the ranch. Faith is a huge component at the ranch, which accepts struggling children and teens for a year or two. While the residents are not ordered by the courts to be there, many have chosen the ranch as an alternative to juvenile detention or other probationary conditions.

The rules are strict—hospital corners on the beds, neatly folded clothes and taking only what you can eat at meals—but the kids who live there find they don't mind after a few weeks.

Richard Amado, 16, found himself at the ranch after some minor scrapes with the law. Although he says he initially chafed at the carefully regimented days there, he has made up two grade levels in his schoolwork and has become a quiet, well-mannered young man.

During their convention, the bankers held a golf tournament in addition to the craft sale and the concert.

Some of them also toured the ranch, meeting the kids and seeing where their money will go. They were so impressed, they may donate some of next year's fund-raising haul to the ranch, Pinkerton said.

Acks, who said each day can bring small miracles for the often-strapped ranch, wasn't surprised at their reaction. Anyone who visits, she said, can't help but be touched.

''It's really just an amazing place,'' she said.

I commend America's Community Bankers for leaving its most recent hand-print in Orlando at the Edgewood Children's Ranch, and encourage other groups to follow this unique example of community involvement.

A CLARIFICATION FOR THE PATENT AND TRADEMARK PROVISIONS IN H.R. 1554, AS PASSED IN THE HOUSE OF REPRESENTATIVES ON NOVEMBER 9, 1999

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. MANZULLO. Mr. Speaker, H.R. 1554, the Satellite Home Viewer Act, includes most of the legislation that would impact the U.S. Patent system. I worked closely with the authors of the bill in the House of Representatives. I appreciate the time they took to listen to my strong concerns about the original bill, H.R. 1907, which passed in the House overwhelmingly this past August. I offer these remarks, however, to create a legislative history and to clarify language in one of the sections I believed needed reworking—the title concerning Third Party Re-Examination.

Under Subtitle F—Optional Inter Partes Reexamination Procedure, Section 4605 Conforming Amendments, paragraph (b) contains what I believe to be a technical error. Section 134 of title 35 of the United States Code is amended in two sub-paragraphs (a) and (b). H.R. 1554 uses the term ''administrative patent judge'' where it should read ''primary examiner,'' in both paragraphs. Therefore, this section should read,

Section 134 of title 35, United States Code, is amended to read as follows:

''Section 134. Appeal to the Board of Patent Appeals and Interferences

''(a) Patent Applicant.—An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and interferences, having once paid the fee for such appeal.

''(b) Patent Owner.—A patent owner in any reexamination proceeding may appeal from the final rejection of any claim by the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.''

I thank the Speaker for his indulgence in allowing me this opportunity to clarify the language of this section of H.R. 1554.

CELEBRATING THE 134TH ANNIVERSARY OF THE BETHEL MISSIONARY BAPTIST CHURCH OF CROCKETT, TX

HON. JIM TURNER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. TURNER. Mr. Speaker, I rise today to recognize and celebrate an important milestone in the history of Bethel Missionary Baptist Church, of Crockett, Texas. On October 10, 1999, Bethel Missionary Baptist Church celebrated 134 years of service to this East Texas community. As the church members celebrate this important anniversary, I ask all of my colleagues to join with me today in recognizing this milestone. I would also like to take this opportunity to congratulate Reverend Delvin Atchison for his continued leadership of the Bethel congregation.

Organized in 1965 by newly-freed slaves, Bethel Missionary Baptist Church today is a vibrant and growing ministry. As a resident of Crockett, I can truly attest to the tremendous impact the church and its members continue to have on the lives of Houston County residents. Bethel Missionary Baptist Church has become known throughout Crockett and surrounding communities as ''A Community of Caring Christians.''

Through the years Bethel Missionary Baptist Church as profoundly influenced the life of our community because it has been blessed with lay leaders who have also been leaders in the civic, cultural and political affairs of Crockett, Houston County and the State of Texas. In addition, Bethel has benefited from the leadership of many gifted and talented ministers exemplified by its current pastor, Delvin Atchison. My personal relationship with Reverend Atchison and with the late Reverend J.T. Groves has been a blessing to me and my family. Their leadership has expanded the boundaries of influence of Bethel Missionary Baptist Church.

Bethel's ministry has contributed not only to meeting the spiritual needs of the congregation but to the healing, reconciliation and racial harmony of the larger community. During the past 134 years, the members of the Bethel Missionary Baptist Church congregation have been at the forefront in advancing civil rights and civic participation and have fostered unity, justice and social progress for all citizens.

Mr. Speaker, I ask you and my other distinguished colleagues to join me in congratulating the congregation of Bethel Missionary Baptist Church, under the guidance of Reverend Atchison, as it celebrates its 134th anniversary. All past and present church members

and pastors should be proud of the numerous contributions Bethel Missionary Baptist Church has made in the spiritual life of the Crockett community over the past 134 years. May God continue to bless this ministry of service and caring.

RECOGNIZING THE U.S. BORDER PATROL'S SEVENTY-FIVE YEARS OF SERVICE

SPEECH OF

HON. HENRY BONILLA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 10, 1999

Mr. BONILLA. Mr. Speaker, I rise in support of this legislation ''recognizing the United States Border Patrol's 75 years of service since its founding.''

I have nearly 800 miles of the Texas-Mexico border in my congressional district. I know all too well the extent to which Border Patrol agents meet the daily challenge of keeping our borders safe and curbing the flow of illegal aliens and drugs into the United States with courage, patience and sheer tenacity. They go out every day and fight to keep our borders and our border residents safe.

Our Border Patrol field agents are the best in the business. It is an ongoing battle to keep our borders safe, drug-free and crime free. The Border Patrol is faced with carrying out a tremendous task with limited, often outdated and failing resources. Yet, every day they go out to defend our borders. The brave men and women of the Border Patrol put their lives on the line for us. Those of us in border communities know what a crucial role the Border Patrol plays in protecting our borders daily.

As a Texan I take pride in recognizing the fact that the founding members of the Border Patrol included Texas Rangers, sheriffs and deputized cowboys who patrolled the Texas frontier during the late 1800s and the early 1900s.

I am honored to support this legislation which honors our Border Patrol personnel who serve this nation in defending our borders.

INTRODUCTION OF THE FAIR CREDIT REPORTING AMENDMENTS ACT OF 1999

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. SESSIONS. Mr. Speaker, today I introduce legislation to provide a technical clarification to the Fair Credit Reporting Act (FCRA). This clarification is necessary to protect workers and small businesses from unsafe work conditions and to root out illegal activity in the workplace.

Provisions of the Fair Credit Reporting Act (FCRA) as amended in 1996 undermine investigations of sexual harassment, embezzlement, workplace violence, drug sales and other illegal activities in the workplace. Because of an interpretation by the Federal Trade Commission (FTC) of the 1996 FCRA amendments, employers who retain investigators, attorneys, or others to conduct inquiries into unlawful activities subject themselves to the provisions of the Act and must: Provide notice before initiating an investigation; obtain written authorization from the suspect and other employees; upon request, disclose the ''nature and scope of the investigation''; and prior to taking any adverse action against an employee, provide the employee a complete and unedited copy of the investigative report.

When the FCRA amendments were passed in 1996, Congress did not intend for such burdensome restrictions to be placed on employers who seek to provide safe, crime free workplaces for their employees.

The Occupational Safety and Health Act requires employers to provide a safe and secure workplace. And Civil rights laws require employers to investigate allegations of sexual harassment and discrimination. Yet, the FCRA makes such inquiries impossible. Even if the employer is able to persuade a suspect employee to consent to an investigation, the investigation could still be thwarted by the accused who may be able to ''cover his tracks.'' Even more important is the chilling effect of providing investigative reports to suspected miscreants. What witness will be forthcoming when they find out the accused will know who spoke to the investigator? What is the logic of asking a deranged employee if you can investigate him?

Americans are all concerned with the rise in incidences of workplace violence, including killings this month in Seattle, Washington and Honolulu, Hawaii. At a time when we are all concerned about workplace violence, the FCRA is tying the hands of employers who attempt to protect their employees.

The application of the FCRA is far broader than Congress intended when the law was amended in 1996. It now undercuts virtually all workplace investigations and may impact on legitimate inquiries outside of the workplace as well. Congress needs to make clear that these investigations are not covered by the Act.

The legislation I introduce today, the Fair Credit Reporting Amendments of 1999, has been drafted through a careful bipartisan process. Concerns from consumer groups and the FTC were incorporated into the final draft of this legislation. The legislation removes the requirement of employee consent for an employer to investigate a limited number of illegal or unsafe activities in the workplace. These limited activities include drug use or sales, violence, sexual harassment, employment discrimination, job safety or health violations, criminal activity including theft, embezzlement, sabotage, arson, patient or elder abuse, and child abuse.

Additionally, should an employer seek to use such a report to take any action against an employee, the employer must inform the employee that a report was prepared as well as the nature and scope of the report.

This is important legislation that should be considered early in the next session of Congress. I urge my colleagues to join as cosponsors and push for speedy passage of this bill to reduce crime and provide safer workplaces.

TRIBUTE TO DR. TOMMY J. DORSEY

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to Dr. Tommy J. Dorsey for his outstanding contributions to his community, particularly through the Meharry Medical College Benefit Golf Tournament.

The Meharry Medical College Benefit Golf Tournament began in Orlando, Florida, in December of 1991 to raise funds to support Meharry Medical College and its needy students. With golf participants in its first event, the tournament raised $10,000 for the college. In its second year, the tournament drew 120 golfers, and continues to grow yearly. To date, the tournament has raised over $100,000 for the college and its students.

Dr. Dorsey is one of the very distinguished alumni of the Meharry Medical College School of Dentistry. He graduated from Jones High School in 1961, and attended Fisk University where he received a B.A. in Biology. He then attended Meharry Medical College for 4 years where he received his D.D.S.

Dr. Dorsey served as a Lieutenant in the Navy from 1969–1971, and was awarded a Navy Commendation Medal in Human Relations. After his stint in the service, Dr. Dorsey served as the Chief Family Dentist at the Neighborhood Family Health Center of Miami for 4 years. In 1975, Dr. Dorsey went into private practice in Orlando, where he continues to work today.

Dr. Dorsey has held many positions in his community, and has been recognized for his service and dedication on many occasions. He founded and served as Executive Director of the Orlando Minority Youth Golf Association in 1991, he has served as the Vice Chairman of Orange County Membership Mission and Review Board, a member of the Community Development and Youth Service Board, President of the Orlando Alumni Chapter of Meharry Medical College, member of the Board of Trustees at Meharry Medical College, and was chosen as the 1994 Alumnus of the Year from Meharry Medical College. Dr. Dorsey also received the Winter Park Alumni Chapter Community Service Award from Kappa Alpha Psi Fraternity, Inc., in 1996, the Omega Psi Phi Outstanding Service Award in 1997, the Tiger Woods Foundation and The Minority Golf Association Recognition Award in 1997, the Orange County Classroom Teachers Association Martin Luther King, Jr. Award in 1998, the Orlando Alumni Chapter of the Year Award in 1998, and the Star 94.5 Home Town Hero Recognition.

Dr. Dorsey is a member of Omega Psi Phi Fraternity, Inc., he is a Prince Hall Affiliated Mason, a member of the Noble of the Ancient and Arabic Order of the Mystic Shrine, and a member of BETA XI BOULE—Sigma Pi Phi Fraternity, Inc.

Mr. Speaker, I ask you to join with me in honoring Dr. Tommy J. Dorsey for his outstanding community involvement, and in wishing him continued success with the Meharry Medical College Benefit Golf Tournament.

TRIBUTE TO WADE KING

HON. JACK METCALF

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. METCALF. Mr. Speaker, Wade King was a 10-year-old boy from my district who was killed on June 10th when a gasoline pipeline ruptured and exploded in Bellingham, Washington. I submit this letter written by someone who knew him very well, into the RECORD as a memorial to him.

A LETTER FROM WADE

Dear Mom & Dad, Sis, Bro, Lynn, Jessica, Grandma Dorothy and all:

I wanted you to know I arrived safely. Jesus met me and led the way. This is an awesome place. I asked him what happened and he told me a gas pipeline ruptured and exploded in the park, filling the creek where Steve and I were playing. I told him I thought that was a dumb place for a pipeline, and he said something like we humans still have a problem with foresight, whatever that means.

Anyway this place is just out of sight, and guess what, I don't have any burns and no pain, and all they tell you about Jesus is true. He loves us all and said he'd take care of you, Mom and Dad, and everyone else back in Bellingham.

I can't make up my mind what I like best about this place, because time doesn't matter; we can sleep when we want, eat when we want and the food is fantastic; you know how I like food, and sports are always being played. This morning Steve and I counted at least 12 baseball diamonds with games going on at all of them; some of the greats were playing—that DiMaggio guy and Mickey Mantle. I guess they were pretty good, weren't they Dad? And by the way I got to watch the Mariners on Saturday—way to go guys. I knew we could beat those Ferndale guys. It was a special hook-up because they knew how important this game was to me.

Mom, I hope you're not too sad, or mad at me: I know I've caused a lot of people to be sad, but tell everyone I'm fine, especially all the kids and teachers at Roosevelt. My education will continue; I have a lot of stripes to earn before I become an angel—can you imagine that? Me, and angel? Yeah, I know I can hear you all laughing, ''Wade with wings?'' Just imagine that—but you can bet I'm going to be the best angel possible.

Tell my 4th grade Sunday school class at St. Paul's that they should study the Bible: it has all that really matters in life; that will be my biggest task along with all the regular subjects.

I want you to know, too, how special a send-off you and Father John gave me at Harborview—to have you there gave me the strength to face the darkness until Jesus came for me.

I miss you all very much, and Jesus told me how much you all miss me, and then he pointed out that we can always replay the tapes of our lives to remember those special moments. Then he reminded me of the time he said, ''I am with you always.'' Well, he said the same is true of us—I will be with you in spirit forever, just as Jesus is with you. I gave Jesus a high five when he reminded me of that;—he is a cool guy.

You know we touched each other in life: I touched you and you touched me. Each of you went into making me who I am, and I'd like to think I helped you be who you are. If that is so, then I continue to live in you and you live in me.

Finally, thank you for celebrating my life today; it is special to know how much you are loved; I know I'm one very much loved boy and I love you all, too. Jesus says that is the key to life—loving each other. Remember his commandment, ''Love one another as I have loved you.''

I love you all,

WADE

Amen.

TRIBUTE TO MAYOR JAN RUDMAN

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. CALVERT. Mr. Speaker, throughout towns and cities across our nation there are individuals who are willing to step forward to dedicate their talents and energies to making life better for their friends and neighbors. The citizens of Corona, California, are fortunate to have such an individual in outgoing Mayor Jan Rudman.

Mayor Rudman's involvement with Corona city government, and community, began in 1994 when she was first elected to the Corona City Council. As a councilwoman she represented the community's concerns, set priorities for projects and plans of action, allocated funds, and made decisions essential to the future of Corona. Her energy seems endless, with the long list of her business and community involvements including: Circle City Rotary, 1993 Mayor's Task Force, Navy League, Corona Chamber of Commerce and First Congregational Church.

In 1998, the Corona, recognized her leadership and commitment and elected her mayor. Since then, she has accomplished many goals which have improved the community. One of her greatest accomplishments as mayor was the implementation of the ''Partners in Community Service'' program, implemented to recognize the many volunteer groups and organizations who have given back to the Corona community so graciously.

Mayor Rudman has made a lasting and positive impact in the Corona community. Her involvement and leadership has established a path for those individuals following in her footsteps. I would like to take this opportunity to thank Mayor Rudman for her dedication, influence and involvement in our community. She has served as an outstanding representative of municipal government. It is a great pleasure for me to congratulate Mayor Rudman for the outstanding job she has done as Mayor of Corona.

TRIBUTE TO J. THOMAS DE BRUIN ON THE OCCASION OF HIS RETIREMENT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. PALLONE. Mr. Speaker, on Friday, November 19, 1999, Mr. J. Thomas De Bruin of West Long Branch, NJ, will be honored on the occasion of his retirement from the State of New Jersey's Office of the Public Defender, after 31 years of distinguished public service.

Mr. De Bruin served as a police officer in West Long Branch from 1967 to 1970. In October of 1970, he began working at the Public Defender's Office in what would prove to be a long and impressive career. From 1991 until his retirement, Mr. De Bruin was a Chief Investigator, and since 1995 he has been the Supervisor of the Polygraph Unit. He has been a certified polygraph examiner since 1982. His professional memberships include: the New Jersey Polygraphists, Inc., since 1983, and Past President 1997–98; the American Polygraph Association since 1986, including service on the Membership Committee 1998–99; and the Public Defenders' Investigators' Association of New Jersey, 1971–91.

Mr. De Bruin was also very active in community affairs. He served on a number of commissions and bodies in his home town of West Long Branch, including: the Zoning Board of Adjustment, the Sport Association, the Recreation Commission and the Historic Society. Mr. De Bruin is a Member of the Board of Trustees of the Old First United Methodist Church. He has served as Director of the West Long Branch Little League and as Treasurer of the Public School PTA. He has been a Webelos Leader of the Cub Scouts of America, and President of the Shore Regional High School Quarterback Club. He was a Manager/Coach of the first championship season of the West Long Branch Lions of the Seaboard Bigger League in 1971. Mr. De Bruin has also served as Musical Director of the Asbury Park and Red Bank Area Chapters of the Society for the Preservation and Encouragement of Barbershop Quartet Singing in America.

Tom De Bruin resides in West Long Branch with his wife Louise. They have two adult sons, Brian and Dominick, and a daughter-in-law.

Mr. Speaker, the Office of the Public Defender will be much the poorer with Mr. De Bruin's departure. But I am confident that Monmouth County will continue to benefit from his commitment to service and dedication to our community for many years to come.

TRIBUTE TO MR. GEORGE B. SALTER

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. RUSH. Mr. Speaker, I rise today to pay tribute to one of Chicago's unsung heroes, the late George B. Salter. His untimely death on October 24, 1999 will truly leave a deep void in our community.

Mr. George B. Salter was born in Hickory, Mississippi on October 13, 1916 to the union of Sallie Johnson Salter and Frank Salter. Mr. George B. Salter would later marry his high school sweetheart Louise Lucille Stroter. To this union two daughters were born, Brenda Yvonne Salter and Henrietta Louise Salter.

A Navy veteran, Mr. George B. Salter committed part of his life to protect the freedom of Americans and to further fight for the freedom of others around the world. While in the Navy Mr. George B. Salter was a member of the prestigious Navy band playing the trumpet while stationed in Earl, New Jersey.

Mr. George B. Salter was employed for over 40 years by the Chicago Burlington and Quincy Railroad (presently Burlington Northern

Santa Fe Railroad) where he rose in the ranks and became the first African-American to be appointed to the position of crew supervisor. Mr. George B. Salter was a steadfast believer that with the proper amount of work anything was possible.

Mr. George B. Salter took an active part in his community. This was seen in his utmost consecration to his vocation as God's faithful servant. As a Senior Usher in charge of the Balcony at Liberty Baptist Church, George B. Salter enjoyed helping Liberty's official greeters bring their children upstairs. Mr. Salter brought hope and optimism to ordinary folks whose lives he touched so deeply never holding anyone at arm's length.

Mr. George B. Salter was a relentless community builder, a loving father, and a doting grandfather, completely unselfish in all of his endeavors. Mr. Salter leaves behind his devoted wife of 58 years Louise, his daughter Brenda Salter Jones married to James Jones Sr., Henrietta Salter Leak married to Spencer Leak Sr., and four beautiful grandsons James Jones Jr., Spencer Leak Jr., Stephen L. Leak and Stacy R. Leak. The man they called ''Papa'' will surely be missed.

My fellow colleagues please join me in honoring the memory of Mr. George B. Salter, a true beacon of the Chicago community.

HONORING JACK A. BROWN III

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. TOWNS. Mr. Speaker, I want to recognize the achievements of Jack A. Brown III.

Jack is a native New Yorker who was born and raised on the lower east side of Manhattan. He currently resides, in my district, in the Clinton Hill section of Brooklyn. Jack has had a distinguished 7-year career with the Correctional Services Corporation (CSC). The Corporation is a private company contracted by local, State and Federal Corrections Department to provide concrete services to the inmate population. As the vice president of Correctional Services Corporation Community Services Division, Mr. Brown maintains overall responsibility for the day to day operations of the five New York programs. These programs, three for the Federal Bureau of Prisons and two for the New York State Department of Corrections, are designed to provide inmates with the tools necessary to successfully reintegrate back into their prospective communities as self-sufficient, responsible, law abiding citizens.

Prior to his employment with CSC, Jack served as an officer in the United States Army's Air Defense Artillery Division for 4 years. He is a graduate of the State University of New York at Buffalo with a Bachelor's degree in Human Services, with a concentration in mental health, and Biology. During his academic years, he gained invaluable experience in the field of human services holding positions as Physiatrics Counselor, Chemical Dependency Counselor and Youth Counselor. In December, Jack expects to earn a double Masters degree, an MBA and a Master of Science and Economic Development, from the University of new Hampshire.

I wish Jack Brown success in his future endeavors and I commend his achievements to my colleagues' attention.

INDIA PROTESTS POPE'S VISIT

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. BURTON of Indiana. Mr. Speaker, I was disturbed to learn of the organized protests against Pope John Paul II in anticipation of his recent visit to India. In fact, many would tell you that there was more reason to worry about his safety on this trip than when he traveled to communist Poland under martial law. Although the Pope left the country safely, I cannot forget the ghastly image printed by the media of Hindu activists burning an effigy of Pope John Paul II in New Delhi before his visit.

Mr. Speaker, these protests were led by a violent faction of Hindu fundamentalists that are closely aligned with the Hindu nationalist government. They have carried out a wave of brutal attacks on Christians within the past year. Since Christmas Day of 1998, they have burned down Christian churches, prayer halls, and schools. Also, four priests have been murdered, and earlier this year Australian missionary Graham Staines and his two young sons were burned alive.

How much more of this must we witness? Already 200,000 Christians, 250,000 Sikhs, 65,000 Muslims, and tens of thousands of others have fallen at the hands of either the Indian government or those closely related to the government since the subcontinent's independence a half-century ago.

Mr. Speaker, I submit the articles from India Abroad and the New York Post into the RECORD regarding this disturbing issue.

[From the New York Post, Oct. 28, 1999]

POPE'S PASSAGE TO INDIA MAY BE MOST PERILOUS YET

(By Rod Dreher)

Will Pope John Paul II be safe in India? There is more reason to worry for the pontiff's welfare as he visits the world's largest democracy next week than there was when he went to communist Poland under marital law.

That's because a small but violent faction of Hindu fundamentalists aligned with the Hindu nationalist government have been conducting an organized campaign against the pope as part of a concerted effort to demonize and persecute the country's tiny Christian minority.

The government promises to protect the Holy Father from coalition fanatics. But while John Paul can rely on state security, his Catholic followers and Protestant brethren remain at the mercy of Hindu brownshirts.

These thugs have carried out vicious attacks on Christians since a coalition led by the hard-line Bharatiya Janata Party (BJP) came to power two years ago.

Freedom House, the Washington-based human-rights organization, says there have been more recorded incidents of violence against India's Christian minority in the past year than in the previous half-century.

The most shocking incident took place in January, when Hindu thugs burned alive Australian missionary Graham Staines and his two little boys. That was far from an isolated incident.

In 1998, the Catholic Bishop's Conference in India reported 108 cases of beatings, stonings, church burnings, looting of religious schools and institutions, and other attacks on Catholics and evangelicals.

It has been just as bad this year. Just last month, a Catholic priest working in the same territory as the Staines family was murdered while saying Mass for converts, his heart pierced by a poison-tipped arrow.

Why the attacks? Hindu nationalist leaders, particularly those associated with the BJP-allied World Hindu Congress (VHP), claim Christians are on ''conversion overdrive.''

This is preposterous. Despite being present in India for almost 2,000 years, and educating hundreds of millions of Indian children, Christianity claims the allegiance of less than 3 percent of the country's people.

Even in Orissa state, site of the worst anti-Christian violence, fewer than 500 conversions occur each year.

Still, Hindu nationalists continue to make wild-eyed assertions, such as VHP leader Mohan Joshi's recent statement that missionary homes run by Mother Teresa's order were ''nothing but conversion centers.''

Not true, but if it were, so what?

We know perfectly well what would have become of the diseased and the destitute had Mother Teresa's nuns not rescued them from the street: They would have been left to die in the gutter, condemned by a culture that decrees these lowborn souls deserve their fate.

''What has the VHP done to better the life of the low castes? The answer is nothing,'' says Freedom House investigator Joseph Assad.

''When I was in India, I talked to one Christian who was forcibly reconverted to Hinduism. He told me when no one cared for us, Christians came and gave us food, gave us shelter and gave us medicine.''

An Indian Protestant activist who lives in New Jersey told me BJP rule has meant open season on followers of Christ.

''The last two years have been unprecedented,'' the man says.

''They have burned churches down, raped nuns, killed people. We complain to the government, but they look the other way.''

The Hindu militants certainly do not represent the sentiments of all Hindus. But these thugs have the tacit support and protection of the ruling BJP. Indeed, the BJP Web site condemns ''Semitic monotheism''—Judaism, Christianity and Islam—for ''bringing intolerance to India.''

This is what is known to professional propagandists as the Big Lie. No wonder Hindu hard-liners confidently pillage Christian communities.

How many more Hindu-led atrocities will Christians and others suffer before Prime Minister Atal Behari Vajpayee calls off the nationalist dogs?

Will it take a physical assault on the Holy Father for the world to wake up to the kind of place Gandhi's great nation has become.

[From India Abroad, Oct. 29, 1999]

PROTEST MARCH LAUNCHED AGAINST THE POPE'S VISIT

(By Frederick Noronha)

PANAJI, GOA.—Hindu right-wing groups flagged off a Goa-to-Delhi protest march on Oct. 21 that could fuel the controversy surrounding Pope John Paul II's visit to India, scheduled for early November.

The campaigners are protesting what they call large-scale conversions to Christianity in India and want the Pope to say that all religions are equal.

The protest march, which is scheduled to end in Delhi around the time of the Pope's visit, is being called a ''Dharma Jagran Abhiyan.'' It was flagged off from Divar, an island off Old Goa, once a center for Catholic evangelization.

''This awareness march is for people of all religions. Christians are brothers of the same blood,'' said Subhash Velingkar, one of the organizers of the march.

Velingkar lashed out at the English language media for voicing concern that the march could ignite anti-Christian feelings.

At the same time, however, Velingkar condemned religious conversions saying that they changed ''not just the religion of people, but also their culture and traditions.''

He criticized Delhi Archbishop Alan de Lastic for ''sending an SOS message to the Vatican'' complaining about the situation in India. ''Why should people from India complain to the Vatican?'' he asked.

Velingkar reiterated the demand voiced by the Vishwa Hindu Parishad (VHP), the right-wing affiliate of the Bharatiya Janata Party (BJP) which leads the coalition government at the Center, that the Pope should make an admission in his public address at Delhi that all the religions are the same and all lead to salvation.

The VHP last week once again welcomed the Pope's visit, stating that it was not against Christianity, but was opposed to ''Churchainity.''

A VHP affiliate, the Sanskriti Raksha Manch, has already demanded an apology from the Pope for the atrocities committed during Inquisition in Portuguese-ruled Goa in the 16th century.

From Goa, the march passes through Belgaum, Nipani, Mumbai, Kolhapur and Nashik in Karnataka and Maharashtra, before entering Gujarat, Rajasthan and Madhya Pradesh and then onward to Delhi, covering the 1,300-mile route in about a fortnight. It will reach Delhi by the time of the Pope's visit on Nov. 5.

Newspaper reports quoted Manohar Parrikar, the BJP Leader of the Opposition in the Goa Assembly, as saying that his party was neither opposing nor supporting the march.

He said the movement's leadership was not under the control of the BJP and while individual members of the party were free to join it, the party could not be held responsible for any untoward incident arising from the march.

IN HONOR OF MARGE WILK, RECIPIENT OF THE ''VOLUNTEER OF THE YEAR'' AWARD FROM THE BAYONNE HISTORICAL SOCIETY, INC.

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. MENENDEZ. Mr. Speaker, I rise today to recognize Mrs. Marge Wilk, a life-long resident of Bayonne, New Jersey, for her dedicated service to the Bayonne Historical Society, and for being named this year's ''Volunteer of the Year.''

Mrs. Wilk began her remarkable career in volunteerism with the Bayonne Historical Society, an organization of residents dedicated to preserving the history of this great city. Serving as a trustee for this organization for many years, Mrs. Wilk worked to foster the growth of the Society.

In addition to her work with the Bayonne Historical Society, Mrs. Wilk became an active member of numerous civic and educational organizations, playing a vital role in their growth. She served as recording secretary of Marist High School PTA, president of Holy Family Academy Mothers Club, and president of the Holy Family Academy Alumni Mothers Club for eight years.

A graduate of Bayonne High School and the Horace Mann School, Mrs. Wilk is currently a trustee on the Board of the Bayonne Economic Opportunity Foundation and is the recording secretary of the Colgate Retirees Association. She is also a volunteer member of the Communications Committee of B21C, Bayonne in the Twenty-First Century.

Mrs. Wilk, wife of the late Henry Wilk, has worked as an advertising representative at the Bayonne Community News for the past 15 years and in the business office of the Bayonne Times for the past 19 years. She is the mother of four children and the grandmother of Evan and Nicolas.

Mrs. Wilk exemplifies what we appreciate most in the human spirit and provides a living example of what we all should strive for in our everyday lives. For her service to the residents of Bayonne, and for her hard work for the Bayonne Historical Society, I ask my colleagues to join me in honoring Mrs. Marge Wilk as ''Volunteer of the Year.''

A FOND FAREWELL TO I. MICHAEL HEYMAN

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. STARK. Mr. Speaker, I rise today to pay tribute to my good friend I. Michael Heyman. As his friends and colleagues gather to honor his retirement from the Smithsonian Institute and his years of service to the University of California Berkeley, I would like to share with the House some of the highlights of Secretary Heyman's distinguished career.

I. Michael Heyman became the 10th secretary of the Smithsonian Institution on Sept. 19, 1994. He heads a complex of 16 museums and galleries and the National Zoological Park, as well as scientific and cultural research facilities in 10 states and the Republic of Panama.

Secretary Heyman served as chancellor of the University of California at Berkeley from 1980 to 1990. He began his career at Berkeley in 1959 as an acting professor of law and became a full professor in 1961. His distinguished teaching career has included service as a visiting professor of law at Yale (1963–1964) and at Stanford (1971–1972).

A strong leader and active fundraiser, he strengthened Berkeley's biosciences departments and successfully promoted ethnic diversification of the undergraduate student body while maintaining high academic standards. The university maintains several large museums and, as chancellor, he actively participated in their supervision.

His distinguished career includes serving as counselor to Secretary of the Interior Bruce Babbit and as deputy assistant secretary for policy at the Department of the Interior from 1993 to 1994. He is also a member of the state bars of California and New York.

Born on May 30, 1930, in New York City, I. Michael Heyman was educated at Dartmouth College, earning a bachelor's degree in government in 1951. After a year in Washington as a legislative assistant to Senator Irving M. Ives of New York, he served in the United States Marines as a first lieutenant on active duty from 1951 to 1953, and as a captain in the reserves from 1953 to 1958.

Secretary Heyman received his juris doctor in 1956 from Yale University Law School, where he was editor of the Yale Law Journal. He was an associate with the firm of Carter, Ledyard and Milburn in New York City from 1956 to 1957. He was chief law clerk to Chief Justice Earl Warren from 1958 to 1959.

Over the years, Secretary Heyman has served on and chaired numerous boards and commissions, including almost four years as a member of the Smithsonian's Board of Regents (1990–1994). He has dedicated more than a decade of service to Dartmouth, his alma mater, as a member of its board of trustees from 1982 to 1993 and as chairman of the board from 1991 to 1993. Heyman has also been a member of the board of trustees of the Lawyers' Committee for Civil Rights under Law since 1977.

He is married to Therese Thau Heyman, senior curator on leave from the Oakland Museum in California. Their son, James, is a physicist and teacher.

I join my California colleagues in gratitude and appreciation for Secretary Heyman's contributions to education, law, culture, and above all, public service. His is a career we can only hope others will emulate. We congratulate him on a successful and fulfilling professional life, and we wish him well.

TRIBUTE TO WORCESTER ACADEMY COACH TOM BLACKBURN

HON. JAMES P. McGOVERN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. MCGOVERN. Mr. Speaker, I rise today to pay tribute to a great coach and a tremendous athletic director, Tom Blackburn. Tom will be the recipient of a much-deserved ''Banner Celebration'' on November 21 at Worcester Academy's Daniels Gymnasium. Tom Blackburn came to Worcester Academy in the Fall of 1973 and retired this past spring. He holds the best coaching record in the school's basketball history, including 7 New England Class A Prep School Championships. As a graduate of Worcester Academy, I am proud to have this opportunity to congratulate Tom Blackburn on his achievements.

Mr. Speaker, I know my colleagues join me in paying tribute to Tom Blackburn for his dedication to his players, his school and his community. He is a treasured friend, and I wish him a happy and healthy retirement.

At this point, Mr. Speaker, I include for the RECORD an article on Tom Blackburn from Worcester Academy's alumni magazine, The Hilltopper.

THE BLACKBURN ERA COMES TO AN END

Late in the afternoon of February 27, Tom Blackburn made his final substitutions against Bridgton at the last home game of the season as his twenty-six year career as athletic director and coach at Worcester Academy drew to a close. Though Tom would have greatly preferred a different outcome (Bridgton won 73–64), the game itself was merely a prelude to an afternoon of moving tributes from former colleagues, players, current faculty, family and friends. Of these

it was Dee Rowe '47 who seemed to capture the essence of Tom Blackburn: ''I will always be grateful to Tom for distinguished service to Worcester Academy. He is an outstanding educator and a man of great honor and integrity.''

As part of the celebration, a banner was hoisted commemorating Blackburn's coaching record at the Academy. It is a lofty record indeed. In addition to being the basketball coach with the most wins in the Academy's history (he has been at the helm for 395 of the 895 wins Worcester Academy has posted since 1917), coach Blackburn's team have also made impressive showings in the New England Class A Tournament Championships. Twenty-four of his twenty-six squads qualified for post-season play with eleven reaching the finals and seven earning championships. That's one championship team for every three-and-a-half years of coaching.

Tom Blackburn has also nurtured some great players over his quarter-century career. Former Boston Celtic player and current Indiana Pacers Assistant Coach Rick Carlisle '79, ex-LA Clipper Jeff Cross '80 and University of Maryland Center Obinna Ekezie '95 [as of fall '99, now of the NBA's Vancouver Grizzlies] come immediately to mind.

Morgan ''Mo'' Cassara '93, Tom's successor as basketball coach, commented, ''My postgraduate year at WA was the greatest experience of my life athletically. Tom's discipline and style of coaching inspired me to become a coach too.''

In 1995 Tom Blackburn was inducted into the Academy's Hall of Fame, evidence of his long-term impact and positive influence on its students and on the Academy as a whole.

Headmaster Dexter Morse reflected that, ''Tom has been more than just a head coach and athletic director. He has been a wonderful representative of our school both in the Worcester community and in the greater independent school arena. He will always be known for his strong character, his dedication to teaching and his love for his family and his school. He is without question an inspiration to us all.''

TRIBUTE TO RETIRED NATIONAL WEATHER SERVICE CENTRAL REGION DIRECTOR RICHARD P. AUGULIS

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise today to pay tribute to Richard P. Augulis on the occasion of his retirement as Director of the National Weather Service Central Region headquartered in my Congressional District.

A 35-year employee of the National Weather Service, part of the Department of Commerce's National Oceanic and Atmospheric Administration, Mr. Augulis has always held public safety as the first priority in his career, whether as a forecaster or as an office and regional manager. He recently retired after 12 years as Director of the 14-state Central Region and is currently enjoying his retirement in Las Vegas, where he relocated to be near his family.

Mr. Augulis joined the National Weather Service in August 1961 as a Weather Bureau Student Trainee at WBAS Midway Airport in Chicago while attending St. Louis University. He earned his Bachelor of Science in Meteorology in 1963 and added a Masters Degree in 1967. His distinguished career included a variety of forecasting and management positions with the National Weather Service in Salt Lake City, Utah; to Anchorage and Fairbanks, Alaska; Garden City, New York; and finally, to Kansas City.

As meteorologist in charge of the new Fairbanks Weather Forecast Office beginning in 1974, Mr. Augulis presided over a staff that operated service programs during the exciting and challenging times of the Trans-Alaska Pipeline construction.

Mr. Augulis' leadership was invaluable to employees during the mid 1970s transition from teletype machines to computers as the Automation of Field Operations (AFOS) communications network was implemented by the National Weather Service.

Mr. Augulus' last decade with the National Weather Service included the largest modernization and reorganization ever undertaken by the agency. He helped guide his Region through the introduction and implementation of sate-of-the-art Doppler radar, computer-enhanced weather modeling and forecasting, and restructuring from more than 300 offices of varying sizes and capabilities to an efficient network of 123 Twenty-First Century Weather Forecast Offices across the United States.

Mr. Augulis served proudly as an employee and a manager of the National Weather Service. He is a distinguished executive branch employee whose accomplishments reflect credit on himself, the National Weather Service, and the United States of America.

Mr. Speaker, on this occasion, please join with me, his family, friends, and colleagues as we honor Richard P. Augulis on his retirement from the National Weather Service and on his outstanding contributions to our region.

A TRIBUTE TO AN AMERICAN VETERAN—MR. JESSE CONTRERAS

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. UNDERWOOD. Mr. Speaker, last week on the last Veterans Day of this century, President Clinton recalled the honor, duty and sacrifice of those soldiers, sailors and airmen who did not make it back home to America. He articulated a point that is worth quoting, for it poignantly captures a notion that is often not realized.

President Clinton's impassioned address stated that:

[T]he young men and women who have died in defense of our country gave up not only the life they were living, but also the life they would have lived—their chance to be parents; their chance to grow old with their grandchildren. Too often when we speak of sacrifice, we speak in generalities about the larger sweep of history, and the sum total of our nation's experience. But it is very important to remember that every single veteran's life we honor today was just that—a life—just like yours and mine. A life with family and friends, and love and hopes and dreams, and ups and downs; a life that should have been able to play its full course.

Taking the President's words to heart and remembering our fallen heroes, I would like to describe the life of a very special man who bravely fought for this nation, was wounded in combat, survived the ardors of war, and came home to live a long life as a husband, a father, and a grandfather.

Private, First Class (PFC) Jesse Contreras, a California native, was drafted into the United States Army as an infantryman during the Second World War. As a Mexican-American during the 1940s, he may not have been completely accepted by his country and may have been seen by some as a second-class citizen. Jesse Contreras held no grudges, however, and when his country called upon him to defend the very freedoms and rights that may not have been fully extended to him or his family, Jesse did not hesitate. After basic training, PFC Contreras was bound for Europe as part of the 104th Timberwolf Infantry Division, 413th Infantry Brigade, 3rd Battalion, Company ''I'', under the brilliant command of Major General Terry de la Mesa Allen, himself an Hispanic-American.

The Timberwolves entered the war in the Autumn of 1944 and had quickly become legendary for the ferocious fighting that took place and because the men quickly proved themselves as agile combatants against the deeply entrenched and veteran units of the German Wehrmacht in France. The Division was engaged in sustained combat for approximately 195 days across Northern France towards the German frontier. The Allies were methodically driving the German forces from France. It would be only a matter of time before the Allies would be fighting on German soil on the way to Berlin. As the vice closed in on Germany, Hitler and the German General Staff planned for one last offensive against the Allies.

The strong German offensive, launched the morning of December 16, 1944 became known as the ''Ardennes Offensive'' or ''Battle of the Bulge'' and the 104th was directed to prepare an all-out defense of its sector. This delayed the planned crossing of the Roer river until 3:30 a.m., February 23, 1945 when the major offensive action to reach Cologne was begun. The Rhine was reached on March 7, 1945 whereupon Time Magazine reported, ''The Germans fought for the Roer River, between Aachen and Cologne, as if it were the Meuse, the Marne, and the Somme of the last war all rolled into one.'' It was in this final German offensive that PFC Contreras's story comes to light.

The 104th Division had been engaged in fierce combat from the Roer River to the Rhine in an attempt to repulse the German onslaught. During one particularly fierce fire fight, PFC Contreras was wounded from a German grenade. The wound was not too serious to prevent PFC Contreras from continuing to fight but he quickly found that Company ''I'' had become overrun by the Germans. Captured, he and his fellow Timberwolves found themselves face to face with the treacherous Nazi soldiers.

The head German officer ordered that all the Americans line up. The Nazi officer, who spoke English but with a thick German accent, went down the line of his American prisoners one by one to demand information from them. With submachine guns pointed at the men of Company ''I'', the German officer who held a lead pipe in hand began barking orders and interrogating his captors.

PFC Contreras as a Mexican-American spoke both English and Spanish but since

Spanish was his first language, he had trouble understanding the commands of the German officer. Believing that PFC Contreras was making fun of him or just being recalcitrant, the German officer struck him in the skull with the lead pipe, knocking him out. Before PFC Contreras and his fellow P.O.W.'s were moved to a German Camp, they were liberated by an advancing column of G.I.'s pushing back the Germans.

PFC Contreras was then transferred to a military hospital in England and eventually sent to recover in Ft. Houston, Texas. It was during his recovery that Germany had surrendered. PFC Contreras was soon discharged in September 1945 where upon he became Jesse Contreras, a civilian once again. For his wounds sustained through action with the enemy, PFC Contreras won the Purple Heart medal.

After the war, Jesse Contreras returned home to his wife and began raising his family. In 1998 Jesse passed away having lived a long and fruitful life full of stories, a beautiful wife and a big family that included 6 children, 16 grandchildren and 31 great-grandchildren. Jesse's legacy of service was passed along to subsequent generations of the Contreras family. His son Alfred Contreras became a U.S. Marine during the Vietnam War. And currently two of Jesse's grandchildren are in the Marine Corps while one other grandchild is about to become a Marine.

The life of this remarkable man was meaningful to me because as a little boy, he and his family lived across the street from us when my own family lived for a time, in Norwalk, California. His wife, Mary, and their family became especially close to us and they have always been helpful to us. In many ways I was a member of their family as well.

Jesse Contreras would entertain us for hours with many stories of his exploits during World War II. While he did not win the Congressional Medal of Honor he served his country selflessly and with honor like so many millions of other veterans. He was an average 24-year-old who was asked to do incredible things in the face of enemy fire and even risk his life for his country. It is all the more remarkable when you consider that like most men of his generation he was simply doing what was expected of him. In the years after the war, he remained in close contact with those survivors of Company ''I'' and attended many reunions of the 104th Timberwolves Association with his wife Mary.

Jesse was the typical veteran of World War II in that he fought for his country and asked little in return. He became a great family man whose influence extended to his neighbors like me. It was because of his experience as a wounded veteran struggling to keep a family afloat that helped make him strong of character and a role model for me. His sacrifice was part of a proud tradition of Mexican-Americans who fought with valor and patriotism during all of America's wars.

Mr. Speaker, this was one story about one life, among millions from that greatest of generations. It was a story about a regular family man who as a result of simply doing his duty shed his blood for his country. It was a story about a man who faced the incredible horrors of armed conflict and came home to raise a wonderful family. The United States was built by people like Jesse Contreras and is in many ways the land of the free because it is the home of the brave.

Mr. Speaker, I want to thank Mr. Contreras for his service to his country and for the kindness he showed me as a little boy. I want to also thank his wife Mary and her children who continue to be an inspiration for me for the strength and love of family that they continue to share to this very day. The world is a safer place because of the likes of Jesse Contreras and the millions of other American veterans. It was an honor to have known him and to have learned from him. May God bless his family and God bless the United States of America. Thank you.

TRIBUTE TO CARLOS BELTRÁN

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Mr. Carlos Beltrán, an outstanding Puerto Rican athlete and a very successful baseball player. On November 10, 1999, Carlos was selected as the 1999 American League Rookie of the Year by the Baseball Writers Association of America. Carlos previously was honored as the league's top rookie by Baseball America, the Sporting News, and Baseball Digest.

Born in Manati, P.R., Carlos turned in Rookie of the Year numbers, hitting at a .293 clip with 112 runs scored, 22 home runs and 108 RBIs. He became the first American League rookie to collect 100 RBIs in a season since Mark McGwire in 1987 (118) and the first big league rookie with 100 RBIs since Los Angeles' Mike Piazza in 1993 (112).

Mr. Speaker, Carlos was the Royals' 2nd-round pick in the 1995 June Free Agent Draft. He has never played a game at the Triple-A level, as he made the jump from Double-A Wichita to Kansas City in September of last season. The 22-year-old was second in the American League with 663 at-bats, tied for third with 16 outfield assists and was seventh with 194 hits. He led A.L. rookies in runs, hits, home runs, RBIs, multi-hit games (54), total bases (301), stolen bases (27) and on-base percentage (.337).

Carlos Beltrán established numerous Royals rookie records in 1999, as he produced one of the best all-around seasons of any player in club history with 22 homers, 27 stolen bases, 108 RBIs, 112 runs and 16 outfield assists.

Through his dedication, discipline, and success in baseball, Mr. Beltrán serves as a role model for millions of youngsters in the United States and Puerto Rico who dream of succeeding, like him, in the world of baseball.

Mr. Speaker, I ask my colleagues to join me in congratulating Mr. Carlos Beltrán for his contributions and dedication to baseball, as well as for serving as a role model for the youth of Puerto Rico and the U.S.A.

AFRICAN-AMERICAN INITIATIVE FOR MALE HEALTH IMPROVEMENT

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Ms. KILPATRICK. Mr. Speaker, I rise today to call attention to a tragic health care crisis that currently exists among African-American men in my state of Michigan, as well as across the nation, with regard to undiagnosed and undertreated chronic disease. Research has established that African-Americans exhibit a greater prevalence of chronic diseases than the general population—including diabetes, hypertension, eye disease and stroke. And African-American men often suffer disproportionately.

For example, diabetes is the leading cause of morbidity and mortality in African-American men. Persons affected by diabetes suffer higher rates (often double) of serious preventable complications, including blindness, lower extremity amputation and end-stage renal disease. Poorly controlled diabetes is also a ''gateway'' condition in that it leads to cardiovascular disease (including hypertension), accounting for more than two-thirds of diabetes-related deaths. These unnecessary deaths are due to underlying atherosclerotic cardiovascular disease and result in heart attacks.

Uncontrolled diabetes progressively leads to deterioration in health status, poorer quality of life, and ultimately, premature mortality. It is increasingly clear that serious measures must be implemented in the short-term to address the chronic disease health crisis affecting African-American men in Michigan and to turn these troubling statistics around for the longer term.

Scientific studies show that these complications are preventable, and measures to implement prevention plans must be taken now. As the Federal Government evaluates the investment it should make in this particularly important area of minority and community health, I would strongly encourage cultivating partnerships with integrated health systems in the private sector who have years of substantive experience in designing highly effective community-based health programs.

I have recently become aware of the successful efforts of the Henry Ford Health System in Detroit, MI, to address the crisis through the establishment of the African-American Initiative for Male Health Improvement (AIM–HI). AIM–HI is reaching out with screening and assistance for people who suffer prevalent chronic diseases. AIM–HI provides test results, patient education and participant referrals, monitoring appointment compliance and providing assistance with finding treatment for underinsured participants who test positive. The locus of AIM–HI program services is in the Metropolitan Detroit area, where 75 percent of the Michigan target population resides. In order to reach the largest number of people in the African-American male population, AIM–HI provides program services throughout the community at churches, community centers, senior centers, parks, barber shops, union halls, and fraternal organization halls.

In addition to screening, educational, and treatment access services, AIM–HI is also developing a tool to evaluate the quality of health care delivered to African-American men with diabetes and other chronic diseases. This ''report card'' assesses health care quality and effectiveness across a set of performance indicators that have been developed jointly by a panel of experts and community representatives. This initiative, sponsored by the Henry Ford Health System, is now in an embryonic stage and has had to confine itself to a narrow target population and program scope due to limited resources. Yet, it is resoundingly clear

that this particular model has the potential to make a significant impact in affecting positive outcomes and health status improvement for African-American males.

I would hope that as the Department of Health and Human Services develops its budget for Fiscal Year 2001, strong consideration will be given to investing federal resources in collaborative partnerships with integrated health systems in urban settings that have the expertise to develop innovative models for minority health improvements.

Mr. Speaker, I would like to thank the Chairman of the Labor, HHS, Education Appropriations Subcommittee, Mr. PORTER, and the ranking minority member, Mr. OBEY, for their clear commitment to improving the quality of health care for all Americans in Fiscal Year 2000. I look forward to working with the Subcommittee in the next session of Congress to increase support for critically needed minority health initiatives.

RECOGNIZING THE CONTRIBUTIONS OF SONOSITE, INC.

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. INSLEE. Mr. Speaker, I rise today to recognize SonoSite, Inc., a company located in my home State of Washington. SonoSite, is a spin-off from ATL Ultrasound, has revolutionized the quality and portability of ultrasound equipment by using advanced technology to provide for ultrasound delivery through a hand-held device. Physicians and their patients around the country will benefit from this new high-tech, ultra-portable diagnostic tool that is expected to expand the use of ultrasound in medical care.

Originally designed for the military under ATL Ultrasound, SonoSite's ultrasound system pioneers an advanced high performance, miniaturized all-digital broadband technology platform in a compact, lightweight system. This allows the simultaneous acquisition and interpretation of images, and provides the ability to diagnose conditions in any clinical or field setting. This advancement promises to alter current paradigms in routine patient care—at the patient's bedside, an imaging facility, or even a remote location.

Initially available for use in obstetrics, gynecology, and emergency medicine, this ultrasound technology will enable trained physicians to significantly expand the routine use of ultrasound for faster, more accurate patient evaluations anytime, anywhere, resulting in better patient care. Patients may benefit by avoiding ''waiting trauma,'' the anxiety felt by both patients and physicians when a problem is indicated but diagnostic answers are not available at the point of care.

I recognize the work being done by the Agency for Health Care Policy and Research (AHCPR) to complete outcome-based studies assessing routine use of ultrasound in the assessment of abnormal uterine bleeding. I urge the continued partnership between the Agency and SonoSite to best meet the needs of patients and physicians.

The SonoSite ultrasound system is a highly accessible advance in medical technology—both in terms of portability and cost. The low cost of the new system can result in improved healthcare delivery at a time when health clinics and hospitals are facing additional cuts in their day to day financial operations. The portability of this new technology can allow physicians to expand the use of ultrasound in practice by adding an ultrasound machine to every exam room or otherwise supplementing current stationary ultrasound equipment.

I recognize SonoSite, Inc. for its efforts to maximize the use of innovative technology to advance the heavily-utilized ultrasound system as we move into the 21st century. Their efforts in partnership with the AHCPR, will result in quality, portable, and affordable medical care that will have a positive effect on my constituents in the State of Washington, and to others across the country.

In a State known for medical innovation and technological ingenuity, SonoSite deserves recognition for its pioneering technology.

INTRODUCTION OF STB MODERNIZATION BILL STATEMENT

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. NADLER. Mr. Speaker, today, I am introducing the Surface Transportation Board (STB) Modernization Act. Our rail freight system is an integral part of the distribution of goods across the Nation. The safe and efficient movement of rail freight in this country is an important, though at times unnoticed, part of the economy and the lives of everyday citizens. We take for granted that this system is working properly until goods do not arrive on supermarket shelves or the cost of heating our homes skyrockets due to costs caused by shipping delays.

The trend of carriers to consolidate has left the Nation with only six major railroads. As a result of these mergers, new problems and issues have been created that were not addressed in the Interstate Commerce Commission Termination Act, the law that created the STB. This bill attempts to address those issues and would improve the efficiency of the Nation's rail system and address many of the concerns of labor, shippers, and communities.

First, this bill would provide necessary protection to rail workers by ending ''cram down.'' Cram down occurs when merging railroads override collective bargaining agreements with workers and ''cram down'' new terms on the workers to realize merger benefits. The STB has approved this practice for far too long. Under this bill, a collective bargaining agreement could be modified only if both the rail carriers and affected laborers agree. In addition, the existing minimum level of labor protection would be codified.

Second, this bill would improve the efficiency of shipping in several ways. It would bring an end to ''bottlenecks'' along rail lines. In bottlenecks, the STB allowed one rail carrier to prevent or discourage a shipper from interchanging with another rail carrier for more direct service by refusing to quote a rate or quoting an excessive rate along its portion of a line. In addition, this bill would broaden the STB's authority to transfer or direct the operations of a line and ease the ability of a carrier to gain access to terminal facilities; and narrow the exemption from antitrust laws that railroads currently enjoy.

Third, the bill contains several miscellaneous provisions that would address problems faced by rail carriers, shippers, and the public. The bill would reduce fees for bringing disputes before the STB, provide tax relief for carriers that invest in their rail yards, and codify the STB's decision to eliminate the requirement that shippers show an absence of product and geographic competition in rate cases.

Fourth, this bill would create a Federal Railroad Advisory Committee to study, among other things, the efficiency, maintenance, operation, and physical condition of the Nation's rail system. After 2 years, the Committee would make recommendations for improving the system to Congress and the President.

Overall, the STB Reauthorization Act of 1999 would guarantee that our Nation's rail system will be competitive, efficient, and safe as we enter the 21st century.

REMARKS OF DR. RUTH MERCEDES-SMITH

HON. DONALD A. MANZULLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. MANZULLO. Mr. Speaker, I am proud to take this opportunity to commend this speech given by Dr. Ruth Mercedes-Smith, President of Highland Community College on Freeport, Illinois, to my colleagues and other readers of the RECORD.

LEARNING BEGINS AT HOME

My topic today is ''Learning begins at home.'' But let me be up-front about this topic. While learning does begin at home, we live, unfortunately, in a time when homes are not prepared to meet this challenge. Therefore, people like you and institutions like Highland Community College must join hands and help parents and families prepare themselves to make it happen.

Did you know that 50% of intellectual development takes place between birth and four years of age? That means that parents are important teachers. They provide the foundation for a child's learning skills at home. But, as I said earlier, many parents are not prepared to develop a learning environment. Consider the following statistics: According to a 1992 National Adult Literacy Survey, approximately 22% of America's adults have difficulty using certain reading, writing, and computational skills considered necessary for functioning in daily life. These adults, in general, are operating below the 5th grade level. Of the over 40 million adults with literacy needs, only 10% are enrolled in programs to assist them in improving their skills. Forty-three percent of adults at the lowest literacy level live in poverty. This contrasts with only 6% of those at the two highest literacy levels. Individuals with low literacy skills are at risk of not being able to understand materials distributed by health care providers. Adults with strong basic skills are more likely to ensure good health for themselves and their children. Teen pregnancy rates are higher among those with lower literacy skills.

Seventy-five percent of food stamp recipients performed in the two lowest literacy levels. In addition, 70% of prisoners performed in the two lowest levels. In a 1995 comparison of literacy among seven countries, the United States ranked next to last,

when measured against Canada, Germany, Netherlands, Poland, Sweden, and Switzerland. Clearly a large percentage of our parents are adults at-risk. The question is, ''What will our communities do to help them?'' As a result of the lack of learning that takes place in the home due to parents who do not have the necessary educational skills we also find that we have large numbers of children who face major barriers as they grow toward adulthood.

Let me tell you about these children: Children who don't have the basic readiness skills when they enter school are 3 or 4 times more likely to drop out in later years. Children's chances for success in school are greatly affected by the educational attainment of their parents. A parent's education level is the single best indicator of a child's success in school. Parents who have books in the home and read to their children have children who are better readers and better students. When parents are involved in helping their school-age children with their schoolwork, social class drops out as a factor in poor performance.

Yes, large numbers of our children are at-risk. Again, I ask the question, ''What will our communities do to help them?'' An ancient saying from Africa sums it up well: ''It takes an entire village to raise a child.'' I know Hillary Clinton used this as a book title, but I had used these words long before she made them famous. Think about that for a moment. It takes an entire village to raise a child. It seems to me that Freeport is a village in one sense of that word and that Freeport is of a size that could manage this type of challenge. The same applies to Lena, Stockton, Mt. Carroll, Forreston, and other towns in our region. You see, I have a vision. You are among the first to hear it. My vision is that every town in our community college district will become engaged in this educational challenge and that every town will decide that by the year 2010 every person in that town will have the skills they need to become self-sufficient—whatever the age. Does that sound plausible to You? Do you think it would be too difficult to accomplish? Well, I know we can do it. And I'll tell you why.

First of all, we have several programs from the college that lay the groundwork for such an initiative. One set of services is run by our Adult Education program. Their classes meet across Highland's district. This includes basic skills. GED prep, JobSmart, English-as-a-Second-Language or ESL, and short-term training. Last year these programs served 898 adults. Classrooms are aided by volunteer tutors who meet with students at these sites or at the homes of the tutors or the students. As you can see, this is a very flexible program designed for easy access for students. So here is the first challenge to you. How about becoming a tutor and helping an adult improve reading, writing or math skills? That adult, in turn, will help his or her children and thus we will break the cycle of unpreparedness. Tutors must take 12 hours of training, which is provided at all of our sites on selected evenings or Saturdays. During the last year, the Adult Education program taught 200 students in GED prep and 148 students obtained their GED diploma. I wish you could attend one of those graduations because you would be impressed. Families, including children, attend and celebrate with the graduates. Each year several of them are selected to speak to the group. Once one of the speakers told how her husband had lost his job and could not find another. They both decided to earn their diplomas and not only did they graduate together but he found two jobs. Now that is success! The year before that tears were shed when an 80 year old grandmother, who had conquered cancer, spoke about her desire to have a diploma to show her grandchildren that education was important.

A second program at HCC was developed several years ago when two Highland Foundation members became concerned about the cycle they were seeing in their little community of Mt. Morris. Parents who had not succeeded in school were raising children who seemed to be starting the cycle again. They came to the college to try to determine what types of services might help. They decided to begin a Parents as Teachers program. We worked with them and managed to find some seed money to start them on their way. This program served both parents and children. In the parent segment they created an activity in class that reinforced or taught school readiness; for example, shapes, numbers, and the alphabet. They learned how to work with their children in doing these activities at home. There was also a ''parenting'' component of the class where they shared concerns about family life and discussed solutions. The children attended separate classes, at the same time, with professional childcare workers. Their program goals were primarily physical, social and emotional rather than academic. Ages ranged from 3 to 5. Free transportation was provided for parents and children. This was a key ingredient. In addition, childcare reimbursement was available for children under 2. Recruitment was done through agency referrals such as the Department for Human Services and Head Start.

As the needs of the community have evolved, so has the program. The next iteration was the JobSmart program, which prepared parents for employment while simultaneously working on their parenting skills. Next, an ESL family literacy program was added to address the language needs of a growing Hispanic population in Mt. Morris. Currently, the community is working with us to establish a short-term training program. It has become clear to employees and employers alike that basic computer skills and an introduction to a range of employment possibilities are important for Mt. Morris. Those classes will begin next week.

Here's my point. The citizens of Mt. Morris have worked hard to stay in touch with the needs of their changing community. As they discovered issues, they worked with our staff to create services to address them. So, here comes my second challenge. Think about the Mt. Morris approach to literacy and self-sufficiency. When you identify a need in your community, think of us as a potential partner. We can sit down and talk about a plan, and by sharing our resources, we can make some things happen. A third program initiated by the college is workplace literacy. This service is provided to college district companies. It includes both assessment of worker math and reading skills as well as classroom instruction. Courses are taught at the business or nearby. To date the major sites have been Galena, Warren and Freeport. I have talked with some of these workers and am impressed by their dedication to learning. It is not easy, when one is an adult, to find out that your reading and/or math skills do not meet current workforce needs. Fortunately, all assessments are confidential and employers are only given group data. That allows the workers to feel safe and encourages them to take up the challenge of learning that may have been neglected when they were children. Well, you guessed it. Here comes challenge number three. Why not encourage more local employers to prepare for global competition by upgrading the skills of their workforce?

Yes, learning does begin at home. Unfortunately some homes today are not ready to encourage their children to learn. So people like you, community colleges like HCC, and villages like ours must join in the task. Together we can make it happen. And, if we do it right, the job will be done by the year 2010 and learning will truly begin in the home again—at least in northwestern Illinois. In addition to volunteers, community college programs and community leader dedication, I must tell you that these initiatives also need extra funding. While everyone talks about the literacy problem including governors, senators and the president, the funding is very limited. We are indeed fortunate to have a computer lab for Adult Ed. students at all of our locations. The equipment is there due to grants and the generosity of our HCC Foundation and area businesses. Earlier I mentioned workforce literacy and I'm sure you can see the connection to my theme, ''Learning Begins at Home''. Let me tell you more about our workforce:

We know that 80% of the jobs in the new millennium will require a 2-year college education. In looking to the future, it will take three workers to support each retiree. Where will they come from if 1/3 of the nation is undereducated? In a 1990 national school enrollment study, it was reported that between the 9th and 12th grades, 24% of the students had dropped out. An additional 5%, who started 12th grade did not finish, which means 29% of this cohort did not complete a high school education. Today's dropouts are tomorrow's parents: 1 in 6 babies in the U.S. has a teenage mother; and 1 in 4 is born out of wedlock. As you can see, not only are our villages in trouble, but also our nation. We must work together for the following reasons:

1st: Each generation has a relationship to future generations. Justiz calls it ''reciprocal dependency'' because what one generation does affects what other generations can and will do.

2nd: We are, right now, in the midst of a short window of opportunity. A third world is developing within our nation. The gulf between the haves and the have nots is growing larger.

3rd: Our country is at risk. Our once unchallenged, preeminence in commerce, industry, science and technological innovation is being overtaken by competitors from across the world.

4th: Children who feel failure are beginning to decide that if they can't have total success their next best bet is to have total failure. they see incompetence as an advantage because it reduces expectations.

5th, and most importantly our children have no one to read to them. Remember your parents reading to you? Remember the times you climbed in bed and mom or dad picked up your favorite book? Can you recall the magic of those moments? And now imagine what your life would have been like without those moments. Not a pleasant thought, is it? So I share with you my final challenge—read to a child today!

I close with a quote from the report, *A Nation at Risk*;

''It is . . . the America of all of us that is at risk . . . It is by our willingness to take up the challenge, and our resolve to see it through, that America's place in the world will be either secured or fortified.''

Please read to a child today—it will bring joy to the child and to you. That one small act can begin to change the future of our country, which lies in the hands of all of our children. Yes, learning begins at home, but all of us must help. Here are my challenges to you—once again:

1. Become a tutor and help an adult improve reading, writing or math skills.

2. Identify your community's literacy and self-sufficiency needs and partner with HCC to find resources to address.

3. Encourage more local employers to prepare for global competition by upgrading the skills of their workforce.

4. Read to a child today.

Yes, learning begins at home and this place is home to all of us. Let us join hands and bring the joy of learning to everyone in our communities . . . then learning will truly begin at home once more.

THE JESUIT MARTYRS OF EL SALVADOR

HON. JAMES P. McGOVERN

OF MASSACHSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. McGOVERN. Mr. Speaker, I have just returned from three days in El Salvador where, at the invitation of the Jesuit-run University of Central America (UCA) in San Salvador and the Association of Jesuit Colleges and Universities, I participated in events surrounding the commemoration of the 10th Anniversary of the murders of the Jesuit leadership of the UCA. While this horrific event stunned that small nation and the international community, the unraveling of that case and the identification of who within the Salvadoran armed forces committed this crime contributed to a negotiated settlement of the 12-year civil war in which over 70,000 Salvadoran civilians lost their lives.

Along with Congressman MOAKLEY, I delivered an address at the University of Central America on November 12th. I walked to the site behind the Jesuits' campus residence, the very ground where ten years ago the bodies of my beloved friends were discovered. This hallowed ground is now a beautiful rose garden. Each day people from all over come to the garden to nourish their hope and renew their commitment, and it is used by faculty and students alike for meditation and repose. There is now a chapel where the six priests are buried. The university has also installed a small and emotionally compelling museum dedicated to the lives and deaths of the six Jesuit priests, their housekeeper and her daughter, who as witnesses were also murdered that night.

Mr. Speaker, the lives and deaths of these priests had a profound effect on my own life. I knew them in life, and I helped investigate and uncover who ordered and carried out their murders. I have remained involved and committed to peace, democracy, and development in El Salvador. I will never forget my friends, and I urge my colleagues to never forget our obligation to help El Salvador build a better future.

I would like to enter into the RECORD the address I made at the University of Central America and an article about the 10th Anniversary by Father Leo Donovan, the President of Georgetown University.

10TH ANNIVERSARY COMMEMORATION OF THE JESUIT MARTYRS, UNIVERSIDAD CENTROAMERICANA JOSE SIMEON CANAS, SAN SALVADOR, EL SALVADOR, NOVEMBER 12, 1999

I feel privileged to be here tonight, to be part of this company of speakers, to hear the words and memories of the families, and to honor and remember the lives of our friends—Ignacio Ellacuria, Segundo Montes, Ignacio, Martin-Baro, Amando Lopez, Juan Ramon Moreno, Joaquin Lopez y Lopez, Elba Julia Ramos and Celina Ramos. Congressman MOAKLEY and I are most associated with the investigation into their murders, but I was honored to know these priests for many years. I was honored to call them my friends. I learned from their insights, research and analysis. I laughed and sang songs with them. And I have been inspired by the lives they led.

The lives and deaths of my friends and my experiences in El Salvador have informed and influenced all other actions I have taken on human rights issues. they shape the way I tackle the challenges of social justice, fairness, and civil rights in my own country. And they are always in my thoughts as I think about the values and ideals I wish to pass along to my 18-month old son, Patrick George McGovern.

I believe with all my heart that the United States is a great country. That it is built upon the promotion and preservation of freedom, liberty and respect for the rights and dignity of every one of our citizens. The U.S. has fought to protect democracy, helped war-ravaged countries rebuild, and responded generously to natural disasters, like Hurricane Mitch. As someone who values a sense of history, I'm inspired by the principles enshrined in our founding documents.

The actions of my government, however, during the long years of the Salvadoran war, were a source of deep disappointment for me because U.S. policy did not reflect the values and ideals of America. Instead, that policy had more to do with our obsession with the Cold war than with the search for peace and justice in El Salvador.

The U.S. did not cause the war in El Salvador. But our policy did help prolong a war that cost tens of thousands of innocent lives—including the lives of the six men and two women were gather to honor tonight. Had we used our influence earlier to promote a negotiated settlement, perhaps our friends might be here celebrating with us.

We in the United States need to acknowledge that fact. In particular, our leaders need to acknowledge that fact.

There was an arrogance about U.S. policy that rationalized, explained away, and even condoned a level of violence against the Salvadoran people that would have been intolerable if perpetrated against our own citizens.

Presidents, Vice Presidents, Senators and Members of Congress have for years come to El Salvador to tell you what changes you must make in your nation. They—and I—have urged you to make institutional changes in El Salvador—in your military, your police, your judiciary, and your political institutions. And you have made changes, and you have made great progress in these areas.

To be frank, however, they and I have rarely talked about the institutional changes we need to make in the United States. But the fact is, we in the U.S. have a responsibility to change the culture and mindset of many of our own institutions.

I fear that we in the U.S. have institutions—namely our military and intelligence agencies—that have not fully learned the lessons of El Salvador. While there are examples where these agencies have performed admirably, we continue to make many of the same mistakes. Sadly, the U.S. continues to train, equip and aid repressive militaries around the world in the name of strategic interest—no matter the level of human rights abuses.

In late August, I traveled to East Timor. I was there nine days before the historic vote for independence. I spent a day out in the countryside with Catholic priests Hilario Madeira and Francisco Soares, who were protecting over 2,000 displaced people who had sought refuge from militia violence in the church courtyard. I had dinner in the home of Bishop Carlos Belo and heard him talk about the escalating violence against East Timorese people. And I thought about El Salvador, and the pastoral work of the Catholic Church, and my friends, the Jesuits, and the work of the UCA.

Two weeks after I returned to the United States, Father Hilario and Father Francisco were murdered, shot down on the steps of their church as they tried to protect their parishioners from massacre. Bishop Belo's house was burned to the ground, and he was forced to flee his country.

During the 24 years of Indonesian occupation of East Tmimor, the United States sent the Indonesian military over $1 billion in arms sales and over $500 million in direct aid and training. To the credit of the Clinton Administration, the U.S. severed military relations with Indonesia in September. But we should have done that sooner, and it was the Pentagon that was most reluctant to break relations with its military partners during the first critical weeks of violence that devastated the people of East Timor.

The problem with the Indonesian military, like the Salvadoran military of the 1980s, is not a problem of a ''few bad apples.'' It is an institutional problem. And the U.S. approach to military aid, training and arms sales reflects an institutional problem within the U.S. military. Never again should the United States be in the position of training and equipping military personnel who cannot distinguish between civilian actors and armed combatants.

The U.S. has yet to sign the international treaty to ban antipersonnel landmines—a treaty the Government of El Salvador to its great credit has signed. You have seen the devastation of land mines—the tragedy of a young child missing a leg or an arm and maybe even missing a future. But why hasn't the U.S. yet signed the treaty? Because the institutional culture of the Pentagon rejects giving up any kind of weapon currently in its arsenal, no matter how deadly to innocent civilians. This must change.

Our military institutions should care as much about the lives and security of ordinary citizens as they do about strategic advantage and military relations. I have met many good men and women who serve in the Armed Forces, including many who serve in El Salvador. It is important that our institutions, like these individuals, realize that respecting human rights and safeguarding the lives of ordinary people is in the strategic and national interests of the United States.

And let me be clear, the U.S. Congress also must fulfill its responsibility and demand accountability of our military programs. All too often, Members of Congress simply don't want to know what our military and other programs abroad are doing.

We also must change the culture of secrecy and denial within our military and intelligence institutions

I have pushed my government hard to disclose all documents in its possession related to the case of the four U.S. churchwomen murdered in El Salvador in 1980. It's been 19 years—and the families of these murdered women still do not have the satisfaction of knowing all that their government knows.

I have also pushed my government to release all documents relating to the Pinochet case, including materials on the United States role in the overthrow of the government of Chile and its aftermath. The people of Chile have waited 26 years for justice. The action taken by Spanish Judge Garzon has broken new ground in international human rights law, making it clear that no one, no matter how high their office, who commits crimes against humanity, can escape the consequences of their actions.

I don't do this because I can't let go of the past. I do this because I want to ensure a better future. It is hard to change ''old ways''—

whether we are talking about institutions in the United States or in El Salvador. But we must change in order to protect the freedoms of tomorrow.

I believe the United States has a special obligation, given our past, to help El Salvador in its economic development, to assist the people of El Salvador in achieving their goals, and to support the rights of Salvadoran refugees still living in the United States. As a Member of the U.S. Congress, I believe it is my responsibility to fight for more resources to aid in the development of El Salvador; to help El Salvador confront the challenges of poverty and inequality that limit the futures of so many Salvadoran families; and to aid the people of this great country in pursuing their dreams and aspirations.

I'm proud of our current programs in El Salvador. I know our Ambassador and USAID director have made it a priority to reach out to the Salvadoran people, to encourage participation in the planning of United States development projects, and to forge a working relationship with communities throughout El Salvador—and I commend them for their fine work.

As a citizen of the United States, I want my country to be, in the words of my good friend and mentor, George McGovern, ''a witness to the world for what is just and noble in human affairs.'' This will require the citizens of my country to bring our nation to a higher standard—and we will do so with respect and a deep love for our country.

Over a decade ago, the Jesuits of the UCA taught me that a life committed to social justice, to protecting human rights, to seeking the truth is a life filled with meaning and purpose. I hope my life will be such a life. And if it is, it will be due to my long association with the Jesuits, the UCA, and the people of El Salvador. And for that, I thank you—all of you—you who are here tonight, and those who are with us every day in spirit. You are truly ''presente'' in my life.

[From the Washington Post, Nov. 16, 1999]

MARTYRS IN EL SALVADOR

(By Leo J. O'Donovan, S.J.)

Ten years ago in the early morning darkness of Nov. 16, army soldiers burst into the Jesuit residence at the University of Central America (UCA) in San Salvador and brutally killed six Jesuit priests, their housekeeper and her young daughter. It was not the first assassination of church leaders: 18 Catholic priests, including Father Rutilio Grande and Archbishop Oscar Romero, and four North American churchwomen have been killed in El Salvador since the late 1970s— more than in any other nation in the world. And the murder of priests and nuns continues to scar the history of other countries, including India, Guatemala and most recently East Timor.

While we still grieve their loss the 10th anniversary of the Jesuit assassinations offers an important opportunity to reflect on the enduring legacy of the martyrs.

Far from silencing those dedicated to promoting justice, peace and the alleviation of misery for all in the human family, the Jesuit murders spurred the people of El Salvador—and the world—to witness a higher truth. Shortly after the murders, a U.N. Truth Commission was formed to investigate the killings. Although the government initially claimed that FMLN guerrillas had committed the murders, the Truth Commission determined that the government had in fact ordered the killings.

In an appalling step five days after the report was released, the Salvadoran National Assembly gave amnesty to those convicted. But through the U.N. Truth Commission, an essential truth about state violence in EL Salvador was uncovered, as well as the deeply disturbing fact that 19 of the 26 Salvadoran officers involved in the slayings had been trained at the U.S. Army School of the Americas at Fort Benning, Ga.

The murders—and the unfolding truth about who committed them—helped significantly undermine the power and prestige of the armed forces and provided impetus for the peace process. Signed on Jan. 16, 1992, the peace accords ended a war that had cost the lives of 75,000 citizens and represent the triumph of another of the Jesuits' essential goals—peace through dialogue.

While still fragile, the peace in El Salvador has enabled some political and judicial reform and provides the critical foundation for future advances. Since the end of the civil war, there have been two open, democratic elections, featuring candidates from both the National Republican Alliance Party (ARENA) and the opposing National Liberation Party (FMLN).

The macroeconomic indictors show that inflation is at its lowest level in nearly three decades. Newly elected President Francisco Flores of the ARENA Party has promised continued economic improvement and a vitally needed reduction of poverty. But many grave challenges face him and the people of El Salvator.

Approximately 40 percent of Salvadorans live in dire poverty. More than a third of citizens lack safe drinking water and adequate housing. And more than half the population lacks adequate health care. Education for all, a fundamental goal shared by the slain Jesuits, also continues to elude the country—more than 30 percent of Salvadorans are illiterate.

Violence continues to be a national scourge. A joint U.N. commission in 1994 reported that while military death squads had ceased to operate after the peace accords, criminal gangs or illegal armed groups were committing summary executions, posing death threats and carrying out other acts of intimidation for political motives. The Washington Office on Latin America reports that violent crime continues to threaten the still tender democratic political order. Unless the government can address the problem of citizen security, while respecting human and civil rights, the country may slip back into a state of war. Continuing the work of the martyred Jesuits is more important than ever.

As we look ahead, the Jesuit martyrs offer us a lasting model of courageous service to humanity. At a time when torture, intimidation and death-squad executions of civilians were daily occurrences, my Jesuit brothers regularly endured threats to their safety and well-being. During the civil war, the UCA campus and the Jesuit residence were bombed at least 16 times. But the Jesuit's teaching and research, their pastoral work, and their advocacy of social reform continued despite all challenge. They knew and accepted the great personal risk their work entailed—the risk of their lives.

In the days prior to his death Father Ignacio Ellacuria, president of UCA, had refused the opportunity to remain in his home country, Spain, and wait out the period of unrest in El Salvador. Father Ignatio Martin-Baro, academic vice president was asked, ''Why don't you leave here, Father? It is dangerous.'' He responded: ''Because we have much to do; there is much work.'' The spirit and conviction of these men endures through the efforts of those who bravely stepped forward to take their places, including Father Charles Beirne, S.J., who took over Martin-Baro's position in the aftermath of the assassinations and Father Chema Tojeria, S.J., who now serves as Father Ellacuria's successor. Their spirit endures in the human rights volunteers from around the world—people from organizations such as Catholic Relief Services, Amnesty International and the Lawyers Committee for Human Rights—all active in El Salvador.

It lives in the Salvadoran people. And the spirit of the Jesuit martyrs endures as we in distant countries around the globe learn from their example of steadfast commitment to the poor, to education and to a future built on freedom and justice, not opposition and bloodshed.

TRIBUTE TO OUTSTANDING TEACHERS

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. PAYNE. Mr. Speaker, I rise to pay tribute and to congratulate the outstanding accomplishments of ten distinguished teachers from New Jersey. These great individuals have dedicated over twenty years each to educating and uplifting New Jersey's brightest little stars: our youth. They have truly demonstrated a solid commitment to building strong foundations for their students; in and outside of the schoolrooms.

As a result of their diligent work towards promoting leadership in our children, these teachers will be honored by the Phi Chapter of Iota Phi Lambda Sorority, Inc. on November 20. Iota Phi Lambda Sorority, a national business women's sorority, is devoted to projecting the philosophy of the pursuit of excellence in all worthy endeavors among youth.

The teachers being honored during the Apple for the Teacher program, part of the National Education Week celebration, are: Carolyn S. Banks; Gloria J. Bartee; Henry B. Clark; Phyllis K. Donoghue; Victoria Gong; Mary Jo Grimm; Gail D. Lane; Robin C. Lewis; Simone Wilson; Kathleen Witche.

Mr. Speaker, I ask that all my colleagues join me in congratulating these superb teachers on their efforts to improve the community. When our teachers demonstrate such initiative, we as a nation prosper.

MIAMI CHILDREN'S HOSPITAL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Ms. ROS-LEHTINEN. Mr. Speaker, I proudly rise today to pay tribute to a place where children are second to none: Miami Children's Hospital, which will celebrate its 50th anniversary on March 21, 2000.

This world class children's hospital had its humble beginnings with a vision by our former Ambassador to the Vatican, David McLean Walters. After his granddaughter's sorrowful death from Leukemia, Ambassador Walters decidedly vowed to create a facility where South Florida's children could receive the best possible care, and where no child would lack excellent medical care. With his bold leadership, he worked tirelessly to raise funds through the Miami Children's Hospital Foundation, and what began as a humble idea twenty years ago is now commonly referred to as the Pinnacle of Pediatrics.

Today, under the exceptional steering and superb guidance of its current President, Tom Rozek, Miami Children's Hospital continues to administer superior care to scores of infirm children not only in South Florida, but throughout the entire United States and, indeed the world.

Essential to the achievement of excellence has been the dedication of a talented medical staff administered with tender, loving care and the support of a caring South Florida community.

Our future can only be as good as our children, and with the strong commitment to their health and future that is permeated at Miami Children's Hospital, it is evident that our future will be blazing brightly.

THE 100TH ANNIVERSARY OF THE FRATERNAL ORDER OF EAGLES AERIES #33 and #34

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. VENTO. Mr. Speaker, I want to note for the U.S. House of Representatives the 100th Anniversary of St. Paul, Minnesota's Fraternal Order of Eagles, Aerie #33 which was founded in 1899 and Minneapolis Aerie #34 which was founded the same year. These anniversaries are being celebrated this month with gatherings which reflect on the century of service and the positive impact upon families and communities as a result of the Fraternal Order of Eagles Aeries #33 and #34 in Minnesota.

The Minnesota chapters of the Eagles in 1998 alone raised $838,000 and nationally, the Fraternal Order of the Eagles (F.O.E.) donated $7 million to the Max Baer Heart Fund, $6 million for the Jimmy Durante Crippled Children and Cancer fund, $4 million for Alzheimer's research and $1.5 million to the Make a Wish Foundation.

These contributions speak for themselves as to the important role and spirit of care for those in need the F.O.E. has performed. Equally important are the local efforts and contributions of time and funds to youth and families in many local communities across the nation which has helped to sustain athletic and recreational activities and involvement that has enabled participation by many low and moderate income children and youth.

Even at a dinner celebrating their 100th anniversary in St. Paul, the volunteer athletic club of young men involved in boxing, and servers for the event were generously handed $200 in tips and the regular monthly support for their program monthly.

Certainly, as we emphasize the investment in families and communities and recognize anew today the importance of such private community based efforts, we should give a big thanks to the F.O.E. and especially recognize a century of service for St. Paul F.O.E. #33 and Minneapolis F.O.E. #34 in Minnesota. Their leadership and commitment to people has helped shape our cities, state and nation and certainly we hope that the F.O.E. will have positive success for the next century. They are an outstanding, quintessential example of the American spirit of generosity and grassroots non-profit self help that have well served our nation in the past, today and hopefully for the millenium.

A POINT-OF-LIGHT FOR ALL AMERICANS: THE BROOKLYN ALUMNAE CHAPTER OF DELTA SIGMA THETA SORORITY, INC.

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. OWENS. Mr. Speaker, on Sunday, November 21, 1999 at the Bridge Street AME Church the Members of the Brooklyn Alumnae Chapter of Delta Sigma Theta Sorority, Inc. will celebrate 50 years of Public Service to the Brooklyn, New York Community. The achievements of this very dedicated group deserves recognition from the wider ''Caring Majority'' community.

In observing it's 50th Anniversary, the Brooklyn Chapter will celebrate a history that began with it's charter in November, 1949 as the Delta Gamma Sigma Chapter of Delta Sigma Theta Sorority. The first meeting was called by the late Soror Catherine Alexander. Other sorors in attendance were Pearl Butler Fulcher, Ann Fultz, Dorothy Funn, Rhoda Green, Mary Hairston, Willie Rivers, Vennie Howard, Llewelyn Lawrence, Arneida Lee, Agnes Levy, Fannie Mary, Dorothy Paige, Olive Robinson, Ruth Scott, Gwendolyn Simpson, Carrie Smith, Helen Snead, Frances Van Dunk, and Edith Mott Young.

These twenty dedicated and committed sorors set out to organize programs to enhance the education and cultural life in the Brooklyn Community.

As the years passed, the chapter membership grew as more and more sorors in the area began to take notice of the contributions being made by the Brooklyn Chapter. Today the chapter is comprised of over 200 women dedicated to fulfilling the aims of Delta's National Five Point Program. The activities of these dedicated women provide immediate benefits for local constituents. The example set by the Brooklyn Alumnae Chapter of Delta Sigma Theta Sorority, Inc. should be viewed as a ''POINT-OF-LIGHT'' for all Americans.

TRIBUTE TO BRIAN LANCE GUTLIEB

HON. ANTHONY D. WEINER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. WEINER. Mr. Speaker, I rise today to recognize an upstanding member of our community who is being recognized by the Brighton-Atlantic Unit #1672 of B'nai Brith on the occasion of its 1999 Youth Services Award Breakfast.

Brian Lance Gotlieb has earned a well-deserved reputation as a tireless fighter on behalf of the youth in our community, and is rightfully honored for his achievements by B'nai Brith on this special occasion.

Gotlieb, who serves as the liaison to Intermediate School 303 and Public Schools 90, 100, 209 and 253, is currently working on different ways to protect our community's children. As a member of the District 21 School Board, he has initiated the process of identifying unsafe streets throughout District 21 to ensure the safety of all pedestrians. And, throughout this school year, Gotlieb will be hosting a series of Child Safety Programs that will provide parents with free copies of their children's fingerprints along with Polaroid pictures to present to law enforcement personnel in the event of an emergency.

Further, as my Deputy Chief of Staff, Brian Lance Gotlieb has served as my liaison to the Board of Education and School Construction Authority for the last three years. In addition, he is primarily responsible for the intake and resolution of constituent concerns in my Community Office located in the Sheepshead Bay section of Brooklyn.

Gotlieb, who credits his late mother, Myrna, with teaching him the importance of helping others and being active in the community, created the highly successful organization Shorefront Toys for Tots in 1995. Founded in his mother's memory, Shorefront Toys for Tots has helped bring Chanukah cheer to more than 7,500 underprivileged children in the Shorefront community.

As a student at the Rabbi Harry Halpern Day School and its Talmud Torah High School division, Gotlieb packed and delivered Passover packages to aid needy senior citizens. Gotlieb strengthened his bond with the Jewish community as an undergraduate and graduate student through his involvement with the Jewish Culture Foundation at New York University and B'nai B'rith Hillel at the University of Florida, where he served as a Reporter for the Jewish Student News.

Gotlieb is a member of Community Board 13 and serves on it's Education and Library and Youth Services committees. He also serves his neighbors as a member of the Board of Directors in Section 4 of Trump Village and as an Executive Board member of the 60th Precinct Community Council.

Mr. Speaker, I applaud the members of Brighton-Atlantic Unit #1672 of B'nai Brith for recognizing the achievements of Brian Lance Gotlieb, a tireless worker for the people of Brooklyn and Queens.

INTRODUCTION OF DICKINSON DAM BASCULE GATES SETTLEMENT ACT

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. POMEROY. Mr. Speaker, I rise today to introduce the Dickinson Dam Bascule Gates Settlement Act to bring closure to a long-standing issue between the city of Dickinson, North Dakota and the Bureau of Reclamation. The legislation would permit the Secretary of the Interior to accept a one-time lump sum payment of $300,000 from the city of Dickinson in lieu of annual payments required under the city's existing repayment contract for the construction of the bascule gates on the Dickinson Dam.

In 1950, a dam was constructed on the Heart River in North Dakota to provide a supply of water to the city of Dickinson. However, by the 1970s, the need for additional water in the area was identified. Early in the 1980s the bascule gates were constructed as a Bureau of Reclamation project to provide additional water storage capacity in Lake Patterson, the reservoir created by the Dickinson Dam. At

the time, the city expressed concern about the cost and viability of the gates. Prior to the placement of the gates in North Dakota, no testing on the gates had been conducted at any location in a northern climate. Unfortunately, this significant oversight proved fatal for the gates. In 1982, shortly after the start of operations of the bascule gates, a large block of ice caused excessive pressure on the hydraulic system causing it to fail. These damages added additional costs to the project and a financial burden on the city as modifications to the gate hydraulic system were made and a de-icing system installed.

Today, the city of Dickinson no longer benefits from the additional water capacity of Lake Patterson. The city of Dickinson now received their water through the Southwest Pipeline which was made possible through the Garrison Diversion Unit, another Bureau of Reclamation Project. The pipeline provides a high quality and more reliable water supply than the city's previous supply from Lake Patterson. To date, the city has repaid more than $1.2 million for the bascule gates despite the fact that they no longer provide any significant benefit to the city.

In addition to allowing a lump sum payment, the bill also requires the city of Dickinson to pay annual operation and maintenance costs for the bascule gates, up to a maximum of $15,000. Annual O&M costs to date have averaged about $9,000 over the past 10 years. Any annual O&M costs beyond $15,000 would be the responsibility of the federal government. Finally, the bill permits the Secretary of the Interior to enter into appropriate water service contracts with the city for any beneficial use of the water in Patterson Lake.

Mr. Speaker, I believe that the legislation represents a fair and appropriate resolution for the federal government and the city of Dickinson to this longstanding issue.

THE ALL AMERICAN CRUISE ACT OF 1999

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. HUNTER. Mr. Speaker, today I am introducing a bill critical to the future of our domestic shipbuilding industry. This bill, aptly named the ''All American Cruise Act of 1999,'' takes steps that are long overdue to promote the construction of cruise ships by U.S. shipbuilders. My bill is a prime example of a ''Made in the USA'' initiative.

The United States is the largest cruise ship market in the world. In 1998, 120 foreign-built, foreign-registered cruise ships serviced the American market, which consists of nearly seven million passengers annually. Experts anticipate that by 2003 there will be 10 million passengers and 160 foreign-built and operated ships servicing North America. American shipbuilding firms have been placed at a decisive disadvantage in the global shipbuilding market due to U.S. tax laws and European subsidy policies. European builders of cruise ships receive numerous tax incentives and other assistance from their governments to reduce the price of their ships. Foreign cruise companies operating from U.S. ports pay no U.S. income tax, an immediate price advantage for the foreign competitor. For example, Carnival Cruise Lines, a Libyan registered company, is reported to have earned $652 million in tax-free income during 1998, yet 90 percent of their passengers are Americans.

The All American Cruise Act is designed to bring this industry back to our shores through tax parity desperately needed to encourage our domestic industry. My bill, among other recommended changes, would implement the following: tax credits to U.S. builders of cruise ships of 20,000 gross tons and greater; U.S. cruise ship owners will be exempt from paying U.S. corporate income tax; cruise ship owners will be able to depreciate their ships over a five-year period rather than the current 10-year period; the current $2,500 business tax deduction limit for a convention on a cruise ship would be repealed to give the same unlimited tax deductions for business conventions held at shore-side hotels; and a 20 percent tax credit will be granted to U.S. companies which operate ships using environmentally clean burning engines manufactured in the United States.

While some of these tax provisions may at first glance seem costly to the U.S. Treasury, it should be noted that, since cruise chips are not presently built domestically nor operated as U.S. companies, current tax revenues will not be impacted. In fact, when this bill is passed, hundreds of thousands of high technology and high skill manufacturing jobs will be created. Although my bill has not yet been scored by the Joint Tax Committee or the Congressional Budget Office, I am confident that it will actually contribute to the U.S. Treasury as well as to the U.S. manufacturing base.

In addition, the All American Cruise Act has national security implications. At this time there are only six private-sector shipyards in the United States. These shipyards are located in California, Connecticut and Rhode Island, Louisiana, Maine, Mississippi, and Virginia. Taking legislative action to ensure a robust domestic ship building industry will ensure that U.S. taxpayers have access to competitive prices, technology, and a ready supply of ships and labor in time of conflict. A recent Congressional Research Service Report (RL 30251) stated, ''. . . competition in defense acquisition can generate benefits for the government and taxpayers by restraining acquisition costs, improving product quality, encouraging adherence to scheduled delivery dates, and promoting innovation.'' Further, ''achieving effective competition in Navy ship construction has become more difficult in recent years due to the relatively low rate of Navy ship procurement . . .'' It is in our best interest as a nation to do all we can to ensure that there is a viable and productive United States shipbuilding industry that will meet our national security, cargo and recreational needs long into the future.

The All American Cruise Act will also stimulate revenue for our nation's ports. With U.S. built and operated cruise ships in operation, American cruise lines will be able to dock at more than one U.S. port per trip. This will ultimately benefit both passengers and local ports.

It is also important to emphasize that ships built in the United States and operated by Americans adhere to the highest construction, labor, and environmental standards, unlike ships that are neither built nor operated to America's high safety standards. Our citizens deserve better. My bill will give American tourists the safety they deserve when vacationing at sea.

The All American Cruise Act is supported by both industry and labor. In fact, I am submitting letters in support of this legislation from the following organizations: the American Shipbuilding Association, the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers, the American Maritime Officers, and the American Maritime Officers Service.

I urge all of my colleagues to join me in sponsoring this legislation. Throughout our history, seafaring vessels have played a critical role in our military, cargo movement and entertainment. The time has come to bring the cruise industry back to America's shores. Support the All American Cruise Act of 1999.

AMERICAN SHIPBUILDING ASSOCIATION

November 9, 1999.

Hon. DUNCAN HUNTER,

Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN HUNTER: On behalf of the shipbuilding industry, the American Shipbuilding Association (ASA) would like to express to you its strong support of your legislation, entitled the ''All American Cruise Act of 1999''. This bill will provide American shipbuilders, owners, and crews with tax parity with foreign builders and owners of cruise ships that operate almost exclusively from U.S. ports and derive over 90 percent of their income from U.S. citizens.

As you have recognized, American shipbuilders, ship owners, and crews have been placed at a severe competitive disadvantage in the American cruise ship market because of the U.S. tax code that rewards companies that build and register their ships in foreign countries while penalizing American companies who wish to build and register their ships in the United States. For example, the 120 cruise ships that serve the North American market depart U.S. ports with vacation tours bought by U.S. citizens. These ships, however, are built in foreign countries where governments provide tax credits and other assistance that equates to as much as a 50 percent reduction in the price of these ships. The ships in turn are operated by companies that register them in foreign countries to avoid U.S. corporate income tax. By building and operating these ships foreign, these companies avoid America's high environmental, labor, and safety standards in the construction and operation of their ships, and jeopardize the lives of American tourists.

Some in Congress would propose that the United States just surrender the U.S. cruise ship market to these foreign entities by repealing the American Passenger Vessel Services Act, which requires ships carrying passengers between two U.S. ports to be U.S.-built, owned, and crewed. Our industry believes there is a better way—your way—which would create an All American industry built by Americans for Americans. Your legislation would retain U.S. high safety standards in the construction and operation of cruise ships, while providing American builders and owners tax parity with foreign builders and owners of cruise ships that operate from U.S. shores.

Your bill would create hundreds of thousands of high technology, high skilled manufacturing and seagoing jobs for Americans; strengthen the American defense shipbuilding industrial base; and ignite a powerful engine that would propel all segments of the U.S. economy toward strong growth and prosperity into the 21st Century. Furthermore, American tourists would be assured

that they would be vacationing on the safest constructed and operated ships in the world.

The American Shipbuilding Association commends you for your legislation and urges your colleagues to support the All American Cruise Act of 1999.

Sincerely,

CYNTHIA L. BROWN,
President.

AMERICAN MARITIME OFFICERS SERVICE,
Washington, DC, November 9, 1999.

Hon. DUNCAN HUNTER,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN HUNTER: We understand that you are considering introducing legislation to address the inequities facing the creation of a domestic U.S.-flag, U.S.-built cruise industry. We have reviewed the draft bill and on behalf of the American Maritime Officers Service, we would like to express our strong support for your effort.

As you know, the United States is the largest cruise ship market in the world and represents one of the largest growth markets. Yet all of the large oceangoing cruise ships serving the American market are built and operated by foreign companies to avoid U.S. tax laws. This anomaly has created a market barrier to U.S. companies are to have an opportunity to develop an American cruise industry to serve our market. Your legislation will provide American companies tax parity with their foreign competitors and create hundreds of thousands of high technology jobs, highly skilled manufacturing and seagoing jobs. In addition, your legislation will increase port revenues in the United States.

Again, we wish to commend you for your efforts and urge you to introduce the ''All-American Cruise Act of 1999'' at the earliest possible date. Please do not hesitate to call me if I can be of any assistance in gaining support for your efforts.

Sincerely,

GORDON W. SPENCER,
Legislative Director.

AMERICAN MARITIME OFFICERS, A NATIONAL UNION CELEBRATING 50 YEARS,
Washington, DC, November 9, 1999.

Hon. DUNCAN HUNTER,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN HUNTER: We understand that you are considering introducing legislation to address the inequities facing the creation of a domestic U.S. flag, U.S. built cruise industry. On behalf of the American Maritime Officers, the largest seagoing officer's union in the United States, we want to take this opportunity to commend you for your efforts. This proposed legislation is critical if Americans are to reenter a market currently being dominated by foreign built and foreign-crewed ships.

The United States is the largest cruise ship market in the world and represents one of the largest growth markets. All of the large oceangoing cruise ships serving the American market are built and operated by foreign companies to avoid U.S. tax law. This anomaly has created a market barrier to U.S. companies which pay U.S. taxes.

Tax parity must be provided if U.S. companies are to have an opportunity to develop an American cruise industry. Your legislation will provide tax parity in a number of very critical ways including tax credits to U.S. builders of cruise ships over 20,000 tons, accelerated depreciation for ships build in U.S. shipyards, elimination of the current $2,500 limit for the cost of conventions on cruise ships, and exemption from U.S. corporate income tax for U.S. cruise operators. Changes such as these are critical if Americans are to enter a market now dominated by foreign companies that pay no taxes.

Again we wish to commend you for your efforts and urge you to introduce the ''All-American Cruise Act of 1999'' at the earliest possible date. Please do not hesitate to call me if I can be of any assistance in gaining the support for your effort.

CHARLES T. CRANGLE,
Executive Director,
Congressional and Legislative Affairs
American Maritime Officers.

INTERNATIONAL BROTHERHOOD OF BOILERMAKERS, IRON SHIP BUILDERS, BLACKSMITHS, FORGERS & HELPERS,
November 8, 1999.

HON. DUNCAN HUNTER,
U.S. House of Representatives, Washington, DC.

DEAR CONGRESSMAN HUNTER: We understand that you are considering introducing legislation to address the inequities facing the creation of a domestic U.S. flag, U.S. built cruise industry. We have reviewed the draft bill and on behalf of the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers, and Helpers, we would like to express our strong support for your effort.

As you know the United States is the largest cruise ship market in the world and represents one of the largest growth markets. Yet all of the large oceangoing cruise ships serving the American market are built and operated by foreign companies to avoid U.S. tax law. This is a huge market—120 foreign-built cruise ships serve the American market today. The number is expected to grow to 160 by 2003. Unless U.S. tax laws are amended to allow the entry of American companies into this market, these ships will continue to be built by European shipyards and be owned and operated by foreign companies. Your legislation will provide American companies the needed tax parity with their foreign competitors and create hundreds of thousands of highly skilled manufacturing jobs in the United States. It is a given that European builders of cruise ships receive numerous tax incentives and other assistance from their governments to reduce the price of their cruise ships. It is only fair that our shipyards and our skilled workers be given the same breaks as those provided to our competitors.

Again we wish to commend you for your efforts and urge you to introduce the ''All-American Cruise Act of 1999'' at the earliest possible date. Please do not hesitate to call me if I can be of any assistance in gaining the support for your effort.

Sincerely,

ANDE M. ABBOTT,
Assistant to the International President.

Daily Digest

HIGHLIGHTS

The Senate and House passed H.J. Res. 80, making further continuing appropriations for fiscal year 2000.

Conference Report on H.R. 3194, District of Columbia Appropriations was filed in the House.

Senate

Chamber Action

Routine Proceedings, pages S14653–S14749

Measures Introduced: Eighteen bills and two resolutions were introduced, as follows: S. 1937–1954, and S. Con. Res. 74–75. **Page S14696**

Measures Reported: Reports were made as follows:

Report to accompany S. 1877, to amend the Federal Report Elimination and Sunset Act of 1995. (S. Rept. No. 106–223) **Page S14695**

Measures Passed:

Continuing Appropriations: Senate passed H.J. Res. 80, making further continuing appropriations for the fiscal year 2000, clearing the measure for the President. **Pages S14667–69**

Bankruptcy Reform Act: Senate continued consideration of S. 625, to amend title 11, United States Code, agreeing to committee amendments by unanimous consent, taking action on the following amendments proposed thereto:

Pages S14654–67, S14669–76, S14678–87

Adopted:

Leahy (for Feinstein) Modified Amendment No. 1695, to increase bankruptcy filing fees, increase funds for the United States Trustee System Fund.

Page S14664

Grassley (for McConnell) Amendment No. 2520, to amend section 326 of title 11, United States Code, to provide for compensation of trustees in certain cases under chapter 7 of that title. **Page S14664**

Leahy (for Feingold) Modified Amendment No. 2746, to change the definition of family farmer.

Pages S14664–65

Feingold Modified Amendment No. 2522, to provide for the expenses of long term care.

Pages S14664–65

Torricelli Modified Amendment No. 2655, to provide for enhanced consumer credit protection.

Pages S14671–74

Schumer Modified Amendment No. 2764, to provide for greater accuracy in certain means testing.

Pages S14671, S14674

Durbin Modified Amendment No. 2661, to establish parameters for presuming that the filing of a case under chapter 7 of title 11, United States Code, does not constitute an abuse of that chapter.

Pages S14671, S14674

Durbin Modified Amendment No. 2659, to modify certain provisions relating to pre-bankruptcy financial counseling. **Page S14679**

By 82 yeas to 16 nays, 1 responding present (Vote No. 368), Feinstein Amendment No. 2756, to discourage indiscriminate extensions of credit and resulting consumer insolvency. **Pages S14669–71, S14680**

Kennedy Amendment No. 2652, to amend the definition of current monthly income to exclude social security benefits. **Pages S14678–80**

Rejected:

By 27 yeas to 71 nays (Vote No. 366), Wellstone Amendment No. 2752, to impose a moratorium on large agribusiness mergers and to establish a commission to review large agriculture mergers, concentration, and market power. **Pages S14654–63**

Moynihan Amendment No. 2663, to make certain improvements to the bill with respect to low-income debtors. (By 54 yeas to 43 nays, 1 responding present (Vote No. 367), Senate tabled the amendment.) **Pages S14663–64**

Pending:

Hatch/Torricelli Amendment No. 1729, to provide for domestic support obligations. **Page S14654**

Wellstone Amendment No. 2537, to disallow claims of certain insured depository institutions. **Page S14654**

Wellstone Amendment No. 2538, with respect to the disallowance of certain claims and to prohibit certain coercive debt collection practices. **Page S14654**

Feinstein Amendment No. 1696, to limit the amount of credit extended under an open end consumer credit plan to persons under the age of 21. **Page S14654**

Feinstein Amendment No. 2755, to discourage indiscriminate extensions of credit and resulting consumer insolvency. **Page S14654**

Schumer/Durbin Amendment No. 2759, with respect to national standards and homeowner home maintenance costs. **Page S14654**

Schumer/Durbin Amendment No. 2762, to modify the means test relating to safe harbor provisions. **Pages S14674–76**

Schumer Amendment No. 2763, to ensure that debts incurred as a result of clinic violence are nondischargeable. **Page S14654**

Schumer Amendment No. 2765, to include certain dislocated workers' expenses in the debtor's monthly expenses. **Page S14654**

Dodd Amendment No. 2531, to protect certain education savings. **Page S14654**

Dodd Amendment No. 2753, to amend the Truth in Lending Act to provide for enhanced information regarding credit card balance payment terms and conditions, and to provide for enhanced reporting of credit card solicitations to the Board of Governors of the Federal Reserve System and to Congress. **Page S14654**

Hatch/Dodd/Gregg Amendment No. 2536, to protect certain education savings. **Page S14654**

Feingold Amendment No. 2748, to provide for an exception to a limitation on an automatic stay under section 362(b) of title 11, United States Code, relating to evictions and similar proceedings to provide for the payment of rent that becomes due after the petition of a debtor is filed. **Pages S14681–87**

Schumer/Santorum Amendment No. 2761, to improve disclosure of the annual percentage rate for purchases applicable to credit card accounts. **Page S14654**

Feingold Amendment No. 2779 (to Amendment No. 2748), to modify certain provisions providing for an exception to a limitation on an automatic stay under section 362(b) of title 11, United States Code, relating to evictions and similar proceedings to provide for the payment of rent that becomes due after the petition of a debtor is filed. **Pages S14682–87**

Nominations Confirmed: Senate confirmed the following nominations:

Ronald M. Gould, of Washington, to be United States Circuit Judge for the Ninth Circuit.

Barbara M. Lynn, of Texas, to be United States District Judge for the Northern District of Texas. **Pages S14747–49**

Nominations Received: Senate received the following nominations:

Rhonda C. Fields, of the District of Columbia, to be United States District Judge for the District of Columbia.

Kathryn Shaw, of Pennsylvania, to be a Member of the Council of Economic Advisers. **Page S14749**

Messages From the House: **Page S14693**

Communications: **Pages S14693–95**

Petitions: **Page S14695**

Executive Reports of Committees: **Page S14695**

Statements on Introduced Bills: **Pages S14695–S14739**

Additional Cosponsors: **Pages S14739–40**

Amendments Submitted: **Page S14742**

Authority for Committees: **Page S14742**

Additional Statements: **Pages S14742–47**

Record Votes: Three record votes were taken today. (Total—368) **Pages S14663–64, S14680**

Adjournment: Senate convened at 9:30 a.m., and adjourned at 7:09 p.m., until 11:00 a.m., on Thursday, November 18, 1999. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S14749.)

Committee Meetings

(Committees not listed did not meet)

BUSINESS MEETING

Committee on the Judiciary: Committee ordered favorably reported the following business items:

S. 1561, to amend the Controlled Substances Act to add gamma hydroxybutyric acid and ketamine to the schedules of control substances, to provide for a national awareness campaign, with amendments; and

The nominations of Thomas L. Ambro, of Delaware, to be United States Circuit Court Judge for the Third Circuit, Kermit Bye, of North Dakota, to be United States Circuit Court Judge for the Eighth Circuit, George B. Daniels, to be United States District Judge for the Southern District of New York, and Joel A. Pisano, to be United States District Judge for the District of New Jersey.

Also, committee approved a resolution of issuance of subpoenas pursuant to Rule 26.

House of Representatives

Chamber Action

Bills Introduced: 26 public bills, H.R. 3417–3442; and 8 resolutions, H.J. Res. 82–83, H. Con. Res. 232–233, and H. Res. 384, 388–390, were introduced. **Pages H12225–26**

Reports Filed: Reports were filed today as follows:

H.R. 1827, to improve the economy and efficiency of Government operations by requiring the use of recovery audits by Federal agencies, amended (H. Rept. 106–474);

H. Res. 382, providing for consideration of motions to suspend the rules (H. Rept. 106–475);

H. Res. 383, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (H. Rept. 106–476);

H.R. 1167, to amend the Indian Self-Determination and Education Assistance Act to provide for further self-governance by Indian tribes, amended (H. Rept. 106–477);

Conference report on H.R. 1180, to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work (H. Rept. 106–478);

Conference report on H.R. 3194, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000 (H. Rept. 106–479);

H. Res. 385, providing for consideration of H.J. Res. 82 making further continuing appropriations for the fiscal year 2000, and for consideration of H.J. Res. 83, making further continuing appropriations for the fiscal year 2000 (H. Rept. 106–480);

H. Res. 386, a resolution waiving points of order against the conference report to accompany H.R. 3194, making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2000 (H. Rept. 106–481); and

H. Res. 387, waiving points of order against the conference report to accompany H.R. 1180 to amend the Social Security Act to expand the availability of health care coverage for working individuals with disabilities, to establish a Ticket to Work and Self-Sufficiency Program in the Social Security Administration to provide such individuals with meaningful opportunities to work (H. Rept. 106–482).

Pages H12174–H12222, H12224–25 (continued in Book II)

Speaker Pro Tempore: Read a letter from the Speaker wherein he designated Representative Pease to act as Speaker pro Tempore for today. **Page H12112**

Guest Chaplain: The prayer was offered by the guest Chaplain, Rev. Duane Carlson of Springfield, Virginia. **Page H12112**

Further Continuing Appropriations: The House passed H.J. Res. 80, making further continuing appropriations for the fiscal year 2000 by a yea and nay vote of 403 yeas to 8 nays, Roll No. 596. **Pages H12117–18**

H. Res. 381, the rule that provided for consideration of the joint resolution was agreed to by voice vote. **Pages H12116–17**

Suspensions: The House agreed to suspend the rules and pass the following measures:

Holding Court in Natchez, Mississippi: S. 1418, amended, to provide for the holding of court at Natchez, Mississippi in the same manner as court is held at Vicksburg, Mississippi; **Pages H12118–19**

Allowing Railroad Police Officers to Attend FBI Academy: S. 1235, to amend part G of title I of the Omnibus Crime Control and Safe Streets Act of 1968 to allow railroad police officers to attend the Federal Bureau of Investigation National Academy for law enforcement training—clearing the measure for the President; **Pages H12119–20**

Conveyance of Land the County of Rio Arriba, New Mexico: S. 278, to direct the Secretary of the Interior to convey certain lands to the county of Rio Arriba, New Mexico—clearing the measure for the President; **Pages H12126–27**

Minuteman Missile National Historic Site Establishment Act: S. 382, to establish the Minuteman Missile National Historic Site in the State of South Dakota—clearing the measure for the President; **Pages H12127–29**

Conveyance of Land the City of Sisters, Oregon: S. 416, amended, to direct the Secretary of Agriculture to convey the city of Sisters, Oregon, a certain parcel of land for use in connection with a sewage treatment facility; **Pages H12130–31**

Authorizing Leases on Land Held in Trust by Certain Indian Tribes: H.R. 1953, amended, to authorize leases for terms not to exceed 99 years on land held in trust for the Torres Martinez Desert

Cahuilla Indians and the Guidiville Band of Pomo Indians of the Guidiville Indian Rancheria;

Pages H12131–32

Feasibility Study on the Jicarilla Apache Reservation: H.R. 3051, amended, to direct the Secretary of the Interior, the Bureau of Reclamation, to conduct a feasibility study on the Jicarilla Apache Reservation in the State of New Mexico;

Pages H12132–33

Tribal Self-Governance Amendments: H.R. 1167, amended, to amend the Indian Self-Determination and Education Assistance Act to provide for further self-governance by Indian tribes;

Pages H12133–41

Boundaries Relating to the Coastal Barrier Resources System: S. 1398, to clarify certain boundaries on maps relating to the Coastal Barrier Resources System—clearing the measure for the President; and

Pages H12141–42

Reauthorizing OPIC and the Trade and Development Agency: H.R. 3381, to reauthorize the Overseas Private Investment Corporation and the Trade and Development Agency. **Pages H12146–47**

Suspension Failed—Support for Certain Institutes and Schools: The House failed to suspend the rules and pass S. 440, to provide support for certain institutes and schools by a yea and nay vote of 128 yeas to 291 nays, Roll No. 597.

Pages H12120–26, H12147–48

Suspensions: Pursuant to H. Res. 374, Representative Hansen announced suspensions to be considered by the House. **Page H12127**

Recess: The House recessed at 5:10 p.m. and reconvened at 11:02 p.m. **Page H12174**

Recess: The House recessed at 11:03 p.m. and reconvened at 3:05 a.m. **Page H12222**

Recess: The House recessed at 3:07 a.m. and reconvened at 3:46 a.m. **Page H12222**

Quorum Calls—Votes: Two yea and nay votes developed during the proceedings of the House today and appear on pages H12118 and H12147–48. There were no quorum calls.

Adjournment: The House met at 10:00 a.m. and adjourned at 3:48 a.m.

Committee Meetings

DRUG TRAFFICKING—CUBA'S LINKS

Committee on Government Reform: Subcommittee on Criminal Justice, Drug Policy and Human Resources held a hearing on Cuba's Links to Drug Trafficking. Testimony was heard from Representatives Gilman and Burton of Indiana; Rand Beers, Assistant Secretary, International Narcotics and Law Enforcement Affairs, Department of State; William E. Ledwith, Chief, International Operations, DEA, Department of Justice; and Adm. Ed Barrett, USCG, Director, Joint Interagency Task Force East, Department of Transportation.

PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Committee on Rules: Granted, by voice vote, a rule providing that suspensions will be in order at any time on the legislative day of Thursday, November 18, 1999. The rule provides that the object of any motion to suspend the rules shall be announced from the floor at least one hour prior to its consideration. Finally, the rule provides that the Speaker or his designee will consult with the Minority Leader or his designee on any suspension considered under this resolution.

EXPEDITED PROCEDURES

Committee on Rules: Granted, by voice vote, a rule waiving clause 6(a) of rule XIII (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 rule applies the waiver to a special rule reported on November 18, 1999, providing for consideration of a bill or joint resolution making continuing appropriations for the fiscal year 2000, any amendment thereto, a conference report thereon, or any amendment reported in disagreement from a conference thereon. The rule further applies the waiver to a special rule reported on November 18, 1999, providing for consideration of a bill or joint resolution making general appropriations for the fiscal year ending September 30, 2000, any amendment thereto, any conference report thereon, or any amendment reported in disagreement from a conference thereon.

DISTRICT OF COLUMBIA APPROPRIATIONS, 2000 CONFERENCE REPORT

Committee on Rules: Granted by voice vote a rule waiving points of order against the conference report on H.R. 3194, District of Columbia Appropriations Act, 2000 and against its consideration. The rule provides that the conference report shall be considered as read. The rule further provides that upon adoption of the conference report, the text of the concurrent resolution printed in the rule tabling the conference report accompanying H.R. 2466, making appropriations for the Department of Interior for FY 2000, shall be considered as adopted.

FURTHER CONTINUING APPROPRIATIONS, 2000

Committee on Rules: Granted by voice vote a rule providing for consideration of H.J. Res. 82, making further appropriations for fiscal year 2000 and H.J. Res. 83, making further appropriations for fiscal year 2000 under a closed rule. The rule waives all points of order against consideration of H.J. Res. 82. The rule provides one hour of debate in the House on H.J. Res. 82, equally divided and controlled by the chairman and ranking minority of the Committee on Appropriations. The rule provides one motion to recommit H.J. Res. 82. The rule waives all points of order against consideration of H.J. Res. 83. The rule provides one hour of debate in the House on H.J. Res. 83, equally divided and controlled by the chairman and ranking minority of the Committee on Appropriations. The rule provides one motion to recommit H.J. Res. 83.

WORK INCENTIVES IMPROVEMENT ACT CONFERENCE REPORT

Committee on Rules: Granted by voice vote, a rule waiving all points of order against the conference report on H.R. 1180, Work Incentives Improvement Act and against its consideration. The rule provides that the conference report shall be considered as read.

BRIEFING—DIRECTORATE OF OPERATIONS STATE

Permanent Select Committee on Intelligence: Met in executive session to receive a briefing on the ''State of the Directorate of Operations''. The Committee was briefed by departmental officials.

COMMITTEE MEETINGS FOR THURSDAY, NOVEMBER 18, 1999

Senate

No meetings/hearings scheduled.

House

No committee meetings are scheduled.

Next Meeting of the **SENATE**

11 a.m., Thursday, November 18

Senate Chamber

Program for Thursday: After the recognition of two Senators for speeches and the transaction of any morning business (not to extend beyond 12 Noon), Senate expects to consider any measures regarding the appropriations process, and any other cleared legislative and executive business. Also, Senate may continue consideration of S. 625, Bankruptcy Reform Act.

Next Meeting of the **HOUSE OF REPRESENTATIVES**

10 a.m., Thursday, November 18

House Chamber

Program for Thursday: Consideration of the conference report on H.R. 3194, District of Columbia Appropriations Act, 2000 (rule waiving points of order);

Consideration of H.J. Res. 82, making continuing appropriations (rule waiving points of order);

Consideration of the conference report on H.R. 1180, Work Incentives Improvement Act of 1999 (rule waiving points of order);

Consideration of Suspensions:

(1) H.R. 34, Corrections to the Coastal Barrier Resources System Map relating to unit P19–P;

(2) S. 438, Chippewa Cree Tribe Water Rights Settlement Act;

(3) S. 574, Corrections to the Coastal Barrier Resources System relating to the Cape Henlopen State Park boundary;

(4) H.R. 1802, Foster Care Independence Act;

(5) S. 791, Women's Business Centers Sustainability;

(6) H.R. 1827, Government Waste Corrections Act; and

(7) H.R. 3419, Motor Carrier Safety.

Extensions of Remarks, as inserted in this issue

HOUSE

(The Conference Report No. 106–479 will be printed in Book II of today's Record.)

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