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The House met at 10 a.m.

NOTICE

If the 106th Congress, 1st Session, adjourns sine die on or before November 10, 1999, a final issue of the Congressional Record for the 106th Congress, 1st Session, will be published on November 30, 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 November 29. The final issue will be dated November 30, 1999, and will be delivered on Wednesday, December 1, 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.

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WILLIAM M. THOMAS, *Chairman.*

NOTICE

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MICHAEL F. DiMARIO, *Public Printer.*

MORNING HOUR DEBATES

The SPEAKER. Pursuant to the order of the House of January 19, 1999, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member except the majority leader, the minority leader or the minority whip limited to not to exceed 5 minutes, but in no event shall debate continue beyond 9:50 a.m.

The Chair recognizes the gentleman from Ohio (Mr. KUCINICH) for 4 minutes.

WHAT IS THE WTO?

Mr. KUCINICH. Mr. Speaker, with all the talk about the meeting of the WTO in Seattle, it is worth answering the question, what is the WTO? The World Trade Organization, the Uruguay Round of the GATT, General Agreement on Tariffs and Trade, is a broad-ranging set of international trade rules that, number one, imposes obligations on foreign countries that are beneficial to U.S. multinational companies and, number two, it imposes obligations on the Federal and State governments that place tight limitations on Congress and the State legislatures that are beneficial to foreign multinational companies.

The WTO makes the world the oyster of large multinational businesses, because the WTO takes away the inability of national governments to set the laws of their countries. National governments, including the United States, lose the ability to pass laws affecting the import of products that are dangerous or that are made where there are no worker protections, child labor prohibitions, minimum wage standards or where workers are deprived of the right to organize into unions and bargain collectively.

Even if the import of those products would put U.S. workers out of work or would endanger consumers or the environment, the WTO says no.

At the current time, there is a WTO panel hearing arguments against France's ban on asbestos, a proven carcinogen in humans and a substantial workplace danger.

According to the Congressional Research Service, legislation passed in the U.S. Congress to ban imports of products made with child labor, quote, would be inconsistent with GATT articles, unquote. In other words, the WTO would not permit Congress to ban products made with child labor.

So here is the imbalance: The WTO permits measures that make it easier for large companies to locate anywhere in the world but the WTO forbids a country from banning a product made with child labor.

What would happen if the U.S. passed a law that banned the import of products made with child labor? Any one of the 131 member countries could seek a tribunal in Geneva to overturn the U.S. law. Companies that profit from products made from child labor would be expected to lobby countries to bring such a case. It is possible that companies would be able to bring such a case themselves, without persuading a country government to do so, if the WTO is expanded some more. If a WTO panel of trade bureaucrats ruled that any child labor ban violated the WTO, the U.S. would have to repeal the law or pay damages.

According to the Congressional Research Service, that is just what the WTO tribunal would rule.

So when the World Trade agreement was negotiated, we gave away the United States' greatest negotiating leverage, access to the U.S. market, to improve the rights and living standards of workers in the U.S. and around the world. The U.S. has basically unilaterally ceded this.

In the next few weeks, trade ministers from many of the world's countries will be meeting in Seattle to discuss how to expand the WTO. The U.S. is sending many negotiators, but will they be bargaining for what we need? What we need, what the working people in the United States and overseas need, is to renegotiate the WTO before any expansion occurs. We need to place limitations on the WTO. We need to explicitly enable the United States and other countries to prohibit import of products made with child and forced labor.

We need to be able to use the leverage of access to the U.S. market and other markets to guarantee the rights of workers to organize into unions and bargain collectively; to be protected by workplace safety and right-to-know standards that are minimally equivalent to current U.S. standards; and to benefit from legal minimum wage levels.

We need the WTO to be limited to improve conditions for workers in the U.S. and around the world. American workers would benefit. They would have less reason to be pressured into abandoning efforts to improve wages and conditions by employer threats to move plants and equipment to the Third World.

SELLING ABORTED BABY PARTS, WHAT HAS THE UNITED STATES COME TO?

The SPEAKER pro tempore (Mr. OSE). Under the Speaker's announced policy of January 19, 1999, the gentleman from Pennsylvania (Mr. PITTS) is recognized during morning hour debates for 2 minutes.

Mr. PITTS. Mr. Speaker, I rise today in support of House Resolution 350, a resolution which addresses the horrible practice developing in America of trafficking in baby body parts for monetary reimbursement. Abortion clinics are selling dead, unborn babies, or parts of them, to middlemen. These middlemen, in turn, are selling them to researchers.

Mr. Speaker, just look at this blowup of this price list taken from this chilling magazine article from someone in this awful business. A liver, $150, but it can be gotten for $125 if it is from a younger baby, or one can get a 30 percent discount if it is significantly fragmented; a spleen, $75; pancreas, $100; a thymus, $100.

Look at this, a brain, $999. Notice they even use marketing techniques in this gruesome business, selling it for $1 less than a thousand dollars to make it, I guess, a more attractive purchase.

Again, if it is fragmented, what a terrible way to describe a baby's injured brain from abortion, one can get a 30 percent discount; almost like step right up, ladies and gentlemen. A baby's ear, $75; eyes, $75 for a pair, $40 for one; skin, $100; the spinal cord, $325.

Mr. Speaker, I wish this price list were a cruel Halloween hoax, but it is not. It is a price list for human body parts from aborted babies, in America. This is not Nazi, Germany.

Mr. Speaker, I urge my colleagues to support this resolution calling for oversight hearings.

THE WTO NEEDS A MAJOR OVERHAUL, AND THE UNITED STATES HAS AN OPPORTUNITY TO DO IT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Oregon (Mr. DEFAZIO) is recognized during morning hour debates for 4 minutes.

Mr. DEFAZIO. Mr. Speaker, the gentleman from Ohio (Mr. KUCINICH), who preceded me, talked a little bit about the upcoming meeting of the World Trade Organization, and I would like to follow up on that.

It was Renato Ruggiero, the former director general of the World Trade Organization, who said, and I quote, we are writing the Constitution of a new world government, end quote.

Well, they left out a few things when they wrote that new constitution. They left out consumer rights and protections. They left out labor rights. They left out environmental rights and protections.

The United States has a tremendous opportunity, in hosting the beginning of the next round of negotiations at the World Trade Organization, to initiate a major overhaul of this horribly flawed agreement and drag it kicking and screaming into at least the late 20th Century.

Labor rights, well there seems to be agreement on labor rights. The President has admitted that perhaps the nonbinding, face-saving, political butt-covering side agreements on labor and the environment, which were not binding, which helped push NAFTA through this organization here, the House of Representatives, gave enough people political cover, will not be enough in the future for trade agreements and, if called, he and the vice president, for labor agreements to be core labor protections, to be core to any future

agreement, the only problem is, their employee, the special trade representative, Charlene Barshefsky, does not seem to share their views.

When pressed in a press conference last week to expand upon what is the United States talking about here, they cannot be serious about putting labor protections into an international trade agreement, by God, then what would capital do? How could it run around the world looking for the most exploited sources of labor?

She said, quote, this is not a negotiating group. It is an analytic working group designed to draw upon the expertise of other multilateral institutions in order to answer a series of analytic points.

Now, that does not sound an awful lot like labor protections. It does not sound like it will get us to the point made by the previous gentleman from Ohio (Mr. KUCINICH), stopping trafficking in goods produced by forced child labor around the world. No, that is a little too far for the World Trade Organization, and if Ms. Barshefsky has her way, it will be too far for the United States of America to go. That is pathetic.

She goes on to say, the issue of sanctions is nowhere in this proposal and it is certainly not on the table, and then she goes on in another much longer quote I do not have time to give, to say that this analytical look at labor protections will lead everybody to the conclusion that the best way to bring up labor standards around the world is not to have any; sort of like the theory of the Republicans here in Congress. If we did not have a minimum wage the market would set one and it would be good for everybody.

Well, maybe not the people who earn the minimum wage or just above it, but it would be good for the employers.

The same thing with the World Trade Organization and Carlene Barshefsky. They want to say the market will bring about in the future some sort of labor protections without these horrible dictates.

In fact, they are undermining our own laws here in the United States with the World Trade Organization, a little secretive body of 3 people who are exempt from conflict of interest, exempt from public disclosure, make binding decisions on trade disputes.

The U.S. has lost a number of trade disputes on environmental issues over the last few years, but they have won one big one.

We are going to force the Europeans to take hormone-laced beef. By God, that is a big victory for the U.S. and we should have more of this. We do not want to reform this organization. We do not want transparency and doing away with conflict of interest rules. We do not want any system of juris prudence the American people can understand. We do not want to allow environmental groups or labor groups to intervene and mess up the decision-making process of the World Trade Organization.

We have a tremendous opportunity as the United States of America to lead, and maybe we have to get rid of Ms. Barshefsky to do that.

QUINCY LIBRARY GROUP AND FOREST HEALTH

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

Mr. HERGER. Mr. Speaker, we have a forest health crisis in this country and the Clinton-Gore administration's current do-nothing policies are utterly failing to address it. A government report released in April states that approximately 39 million acres of our western national forests are at extremely high risk of catastrophic fire.

Alarmingly, this same report indicates that the Forest Service has failed to advance a cohesive strategy to treat this 39 million acres at risk, despite the fact that the window of opportunity for taking effective management action is only about 10 to 25 years before catastrophic wild fires become widespread.

Last year, Congress passed historic legislation that was intended to provide the Forest Service a tool with which to proactively address and combat this forest health crisis.

The bipartisan Herger-Feinstein Quincy Library Group Forest Recovery Act, which passed last Congress by an overwhelming margin of 429-to-1, mandated a project to manage our forests for health and safety, while providing for a responsible, ecologically sound level of harvesting to benefit local economies.

The Forest Service was assigned the responsibility of carrying out this specific plan, but made several last minute additions to the environmental analysis that have drastically tilted the bipartisan balance that this Congress struck in the law and the Quincy Group struck in its plan.

These changes, based on a combination of bad science and special interest politics, will prevent treatment on almost all of the 2½ million acres to be protected from catastrophic fire under the original plan. The decision was made behind closed doors, without public input.

Mr. Speaker, the Forest Service has taken it upon itself to circumvent a law that this Congress passed almost unanimously. The Quincy plan presented us with an opportunity to proactively prevent the very type of catastrophic forest and wildland fires that have ripped through 5 counties in my district in Northern California in the past 8 weeks, tragically taking two human lives.

These fires have also burned more than 250,000 acres of public and private property, destroyed more than 100 homes, eliminated thousands of acres of wildlife habitat and various species of wildlife, and generated tons of smoke. In addition, the American taxpayers have paid close to $100 million to fight these fires.

However, the Forest Service has rejected this plan and has scaled it back to the point that it is almost meaningless, perhaps hoping the fire risks will somehow go away, despite the fact that the risk of catastrophic fire across the West is increasing.

The agency proposes to lock up our choked, fire-prone forests and allow prescribed fires to achieve its so-called forest management goals, even though this policy causes serious air pollution and poses a very real risk that a burn will get out of control, as it has on a number of occasions.

To add to this outrage, Mr. Speaker, the administration recently proposed to lock up an additional 40 to 50 million more acres of national forests, preventing the very management strategies that our fire experts are telling us we absolutely must take.

This attempt to shut down access to the public's forest lands is too much about what special interest groups demand and too little of what their own elected government and science recommends.

This Clinton-Gore administration has needlessly put our lives and property at risk in a selfish attempt to create an environmental legacy. The reality of our forest health crisis is that more, not less, of our forests must be available for pursuing forest management strategies.

We must begin to take proactive steps before catastrophic fires become more widespread. The forest service and this administration have refused to respond and have neglected congressional attempts to address the crisis. They appear ready to serve special interest environmental politics until well after the election.

Regrettably, forest fires are not that patient.

Mr. Speaker, our forests and our communities are at risk and we intend to do everything possible to hold this administration accountable for its negligence.

A LIVABLE COMMUNITY IS ONE WHERE FAMILIES ARE SAFE, HEALTHY AND ECONOMICALLY SECURE

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

Mr. BLUMENAUER. Mr. Speaker, a livable community is one where families are safe, healthy and economically secure. While much attention is given to the damage that unplanned growth can have to the physical environment, the physical blight, traffic congestion, loss of open space, wildlife habitat, it is clear that a community that is not livable can also have direct impacts on

the physical and psychological health of families as well.

Just this week, the South Coast Air Quality Management District in Southern California released a report documenting the danger to people breathing the toxic air that is concentrated near southern California's congested freeways. This danger has increased the risk of cancer. People today are increasingly concerned about the soaring rates of asthma among our children which clearly appears related to the toxins we are putting into the air.

Recently, there was an article that I found amusing in the Washington Post, about how some people really enjoy the real long commute. It helps them center themselves and prepare for a long day.

I suppose that may be true for some, but when the average American spends more than 50 work days a year trapped behind the wheel of a car, just getting to and from their occupation, and when we have lost 43 more hours in the last 5 years to commuting, there are direct implications. I would venture that for a much larger number the commute to work is not the highlight of their day.

The National Sleep Foundation has reported that the 158 hours added to the yearly work commutes since 1969 have been subtracted from the time many Americans sleep. Carol Rodriguez, director of the Institute of Stress Medicine in Norwalk, Connecticut, observed that people with lengthy commutes often exhibit signs of stress in the workplace.

Marriage and family counselors in the Bay Area see patients struggling with the increased demands and stress placed upon them from their longer work commutes. This struggle is manifesting itself in family problems and even divorce. It has been noted that divorce itself is no longer a reliever to the stress of long commutes and separation because often, after a family breaks up, the difficulties of two households in coordinating the needs of children and employment are usually greater in terms of time and miles driven to hold things together.

The job-related problems where employers increasingly, in congested communities, never seem to know when their employees are going to show up, seems tame by comparison.

One of the most interesting developments may be found in a report from the Center for Disease Control and prevention on increasing obesity rates in the United States. Rates have been increasing since 1991 all across America, but there was particular concern about an increase of over 101 percent in Georgia.

In 1991, when the study began, metropolitan Atlanta had one of the lowest obesity rates. What is the reason for the increase? Some blame the traditional southern diet, which it is true is often high in fat, but the South's diet is not that much different than the rest of the country today. In any case, it certainly does not explain why Georgia has the worst problem than the rest of the South.

It is interesting that the researcher placed part of the blame on the problems that metropolitan Atlanta is facing as the community has become less and less livable. The skyrocketing obesity rates coincide exactly with the explosion of unplanned growth around metropolitan Atlanta which some claim is the highest growth rate in history.

Dr. William Deats, one of the study's co-authors, points out that the time in the car encourages not just more fast food, it eats into the time for exercise. Others have noticed that Atlanta's unplanned growth has shortchanged the opportunities for outdoor exercise. It is not a walkable community. Sidewalks do not lead anywhere and even if people had the time and a place to exercise, the increasingly bad air makes the benefits of exercise problematic.

It is important for us to reflect on why the political landscape is being influenced by the discussion of livable communities and why it is such a major issue. It seems at some level the American public understands that their health, both emotional and physical, of the family, the ability to be fit, reduce stress, adequate sleep and for the family to live together is one of the first casualties if a community is not livable.

I strongly urge my colleagues to join with me in making sure that this session of Congress does its job for the Federal Government to be a better partner in maintaining and enhancing the livability of American communities.

REPUBLICANS ARE NOT ISOLATIONISTS

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

Mr. BEREUTER. Mr. Speaker, I have not participated in morning hour before but sometimes we hear things in the news that just cause us to be so upset we come to the floor, and that is what I am doing here today.

President Clinton, Mr. Speaker, made an address to Georgetown University yesterday and some people say it was an extension of an olive branch to Republicans who he had labeled as isolationists and who he criticized for partisanship when the other body refused to approve a comprehensive test ban treaty.

I welcome his initiative but I would like to set the record straight here today and raise a few questions that relate to some of my Democratic colleagues, too.

I have tried to provide bipartisan leadership in the House Committee on International Relations. Indeed the gentleman from Nebraska (Mr. BARRETT) and I come from the only state legislative body that is nonpartisan, our State legislature of Nebraska, so I find the degree of partisanship here in the Congress to be very unusual and not productive. However, I would have to say this, Mr. Speaker, to the President, when national security advisors and secretaries of defense of both parties from past administrations are critical of the proposed treaty and suggest that it should not be ratified in its current form, then I think it is inappropriate for this administration and for this President to label any opponents of the treaty as isolationists.

This use of the isolationist label contributes further to something that the National Journal perpetrated a few weeks ago when their cover story suggested that Republicans, particularly those in the House of Representatives, were isolationists.

I have to say to my colleagues, that yes, there are people that I suppose could properly be labeled isolationists on the Republican side of the aisle and some whose actions I certainly do not approve of in terms of their impact on foreign policy, but I would have to say also, Mr. Speaker, to the President and to the Administration, that when it comes to isolationism, he may look to his own party, particularly in the House.

It is, after all, Democrats who were only willing to give 20 percent of their votes to fast track authority for trade agreements to their own President. This is the first President, since we began the process of fast-track, since President Ford, who has been denied fast track authority to negotiate bilateral and multilateral trade agreements. Only 20 percent of the members on the Democratic side of the aisle were willing to support that. At least 80 percent on the Republican side were willing to vote for fast-track authority for President Clinton by whip counts conducted by the two respective parties.

I would also say this goes on top of the fact that the major opposition to the Africa trade bill and to the Caribbean trade bill came from the Democratic side of the aisle; there were more votes on the Republican side of the aisle for fast-track in both Houses.

I also think it is important that we look at what happened last April, when Premier Zhu Rongji came here from the People's Republic of China with a commercially viable trade agreement for accession to the WTO. Everyone was shocked with the fact that this Administration rejected it. As I understand it, all of the President's primary substantive advisors suggested he should seize the moment and agree to what was a much more beneficial agreement from the United States point of view than we had expected. His political advisors said, no, do not do this, Mr. President.

Now, there are many suggestions that this is because of the relationship and controversy related to alleged Chinese campaign contributions to the

WTO was not a Republican one.

Just a few minutes ago, one of our colleagues from Oregon (Mr. DEFAZIO) suggesting his great concerns about the WTO and was very critical of his own Administration. I would say to the National Journal, when they do an article like that cover story on Republican isolationism perhaps they ought to be a little bit more careful that they are doing it competently and that they are not doing it with bias.

I was also very concerned, Mr. Speaker, when I saw some comments by National Security Advisor Sandy Berger when the conflict took place in East Timor. He suggested in a variety of ways, some things he has retracted, others he has not, that we, of course, could not be involved even in assisting the Australians in trying to keep peace in East Timor because, after all, it was not in the center of Europe.

Now, if that is not isolationism, at least it is Eurocentrism, and it is the kind of thing that bothers Asians and Pacific leaders and their citizens, and with good cause.

I urge my colleagues to take a look at the need to come back for bipartisanship in foreign policy and I urge the administration, Mr. Speaker, to be more careful that they do not alienate some of their best friends for a bipartisan foreign policy on the Republicans' side of the aisle in either House of Congress.

WTO IN SEATTLE

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Ohio (Mr. BROWN) is recognized during morning hour debates for 4 minutes.

Mr. BROWN of Ohio. Mr. Speaker, many of us have come to this floor of the House of Representatives today and on previous days for 5 minutes and 1 minutes in various speeches to talk about asking that the United States not support accession for China to the World Trade Organization. We are instead insisting that labor standards and environmental standards be applied to our trading partners, the same kind of environmental standards and labor standards that we follow in this country. If that makes us isolationists, as my friend, the gentleman from Nebraska (Mr. BEREUTER) suggested earlier, then so be it. But the fact is that those of us that believe in the right kinds of labor standards and the right kinds of environmental standards around the world want to lift people up around the world, not continue this downward spiral on food safety and labor standard and environmental standards that our trading policy seems to move us towards.

Republican leadership last week wrote a letter to the administration demanding that our USTR, U.S. trade rep bureaucrats, do not include labor standards in any of the discussions at the World Trade Organization. The Republican leadership of the Committee on Ways and Means is insisting that the U.S. trade rep ensure that developing countries require that we protect property rights but not human rights, not labor standards, not environmental rights.

At the same time, Mr. Speaker, Trade Ambassador Charlene Barshefsky, an unelected official who never seems to miss an opportunity to publicly diminish the importance of labor rights, was supposed to meet with some of us here in the House last night and explain whether or not the administration really plans to push for stronger worker environmental rights in Seattle.

What happened? Did we have a chance to talk about how Huffy Bicycle has closed its last American plant because it cannot compete with cheap imports from China, a place where trying to form an independent trade union will get one thrown in prison or even killed?

Did we have a chance to talk about some of the maquilladora factories in Mexico which dump their pollution into the same water that their workers have to drink?

Did we get a chance to talk about why armed guards will not permit independent monitors into the garment factories in El Salvador which ship millions of dollars worth of merchandise here every year?

No, we did not, and that is because Ambassador Barshefsky and a score of other American trade bureaucrats were heading off to the People's Republic of China to try to secure a last minute deal to get China into the World Trade Organization.

As we speak, U.S. trade bureaucrats are busy coddling the same gang of dictators that are busy arresting, torturing and even killing Chinese people that practice Falun Gong, which as far as I can tell is the same thing as torturing and killing Christians and Muslims and any other group of people that have spiritual beliefs in that country.

So instead of having a real dialogue on whether the Seattle ministerial will have any discussion about human rights, worker rights, human rights, instead of having a chance to hear exactly what is going to happen in Seattle, the administration wants to commit this country to a policy that will continue to hurt workers, a policy that continues the human rights abuses, child labor, slave labor, forced abortions, persecution of Christians and Muslims and Falun Gong and all kinds of religious minorities in China that will continue to allow that kind of policy to happen in China.

We can bet the farm on it. If the People's Republic of China accedes to the World Trade Organization, if this country's government supports China accession to the World Trade Organization, that is the last we will ever hear about human rights.

Do we really think a totalitarian government that performs forced abortions is ever going to protect labor rights? Do we believe that a totalitarian government which kills thousands of its own people in slave labor camps and then sells their organs is ever going to let the WTO implement any sort of framework to protect the rights of workers?

Mr. Speaker, we should stand strong against the accession of China to the WTO.

ANTIDUMPING AND ANTISUBSIDY PROVISIONS SHOULD NOT BE NEGOTIATED AWAY IN NEW ROUND OF WTO

The SPEAKER pro tempore. Under the Speaker's announced policy of January 19, 1999, the gentleman from Indiana (Mr. VISCLOSKY) is recognized during morning hour debates for 4 minutes.

Mr. VISCLOSKY. Mr. Speaker, I rise to press my argument that as the new round of WTO negotiations begin in Seattle later this month, we should support the administration's position not to negotiate away the antidumping and antisubsidy provisions of our trade laws.

I would also ask that this House vote to support this position by supporting H. Res. 298.

Seattle is the follow-on to the Uruguay Round which was completed on April 15, 1994, and signed by ministers from over 125 countries. Part of this agreement included changes to the antidumping laws which had been included in GATT since its original inception in 1947. In fact, article 6 of the 1947 GATT states very clearly that the contracting parties recognize that dumping is to be condemned.

The scope of negotiations at the Seattle round discussions of the World Trade Organization were specified during the Uruguay Round. However, some countries now are seeking to circumvent the agreed list of negotiating topics and reopen the debate over the WTO's antidumping and antisubsidy rules.

Antidumping duties are assessed on imported merchandise that is sold at less than fair market value. Countervailing duties are assessed to reverse the effects of foreign government subsidies to manufacturers. Today, over 290 products from 59 countries have been found to have been traded in violation of these international standards.

The ability to impose binding tariffs and apply them equitably to all trading partners is the key to a smooth and liberal flow of trade. Many of my colleagues think that this is a steel issue. That could not be further from the truth. The experience of the U.S. cement industry indicates that the antidumping law can be an effective remedy for unfairly priced imports.

U.S. consumption of cement increased substantially during the 1983 to 1989 economic expansion as construction boomed. U.S. cement producers, however, were prevented from benefiting in this growing demand by a surge of low-priced imports in that 6-year period of time.

U.S. production capacity declined by 10 percent and the number of U.S. plants decreased from 142 to only 109.

Beginning in 1989, southern cement producers successfully prosecuted antidumping petitions against imports from several countries. The Commerce Department found dumping margins for imports from 58 to 64 percent. As a result of these measures, cement producers began their recovery process in our country.

Another example often cited is that of the U.S. semiconductor industry in 1986. After foreign dynamic random-access memory chips, DRAMs, were dumped in the United States for 2 years, 7 out of 9 U.S. companies ceased making these chips.

After those foreign firms dominated the world market, they raised the price of DRAMs. The subsequent use of U.S. antidumping laws contributed finally to the revival of the U.S. semiconductor industry, which in 1993 again held the number one position in the world.

Given the fact again that there are 230 cosponsors of House Resolution 298, I would renew my request to the House leaders that this measure be brought to the floor for a vote.

RECESS

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

Accordingly (at 9 o'clock and 38 minutes a.m.), the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

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

PRAYER

Rabbi Joel Tessler, Temple Beth Shalom, Potomac, Maryland, offered the following prayer:

In the Bible, the Prophet Billim is hired to curse the Jewish people, the chosen people of God. Try as he might, God would not place in him the spirit of condemnation and curse, but enveloped him in true understanding with purity and love.

Billim uttered these famous words which were said as a person enters the synagogue: ''How goodly are your homes of Jacob, your institutions of Israel?''

Why do we praise our homes when we enter the synagogue? The Lord taught Billim that our institutions are only as strong as our homes.

If the American family is under siege, is it any wonder that our schools are becoming battle zones for children and teachers?

Money alone cannot substitute for the foundation and grounding that parents, grandparents, and families provide. Every discussion in these halls must be judged with an eye on how goodly are our homes, the homes we help our citizens create.

Our institutions, whether schools or houses of worship, are only as strong as the families which make up this great land.

Today is the anniversary of Kristel Nacht, the night of the broken glass, when darkness descended upon Nazi Germany and thousands of synagogues were set on fire.

Our institutions and the future of our society depends on the families we help support. 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. DEUTSCH) come forward and lead the House in the Pledge of Allegiance.

Mr. DEUTSCH led the Pledge of Allegiance as follows:

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

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 348. An act to authorize the construction of a monument to honor those who have served the Nation's civil defense and emergency management programs.

H.R. 915. An act to authorize a cost of living adjustment in the pay of administrative law judges.

H.R. 3061. An act to amend the Immigration and Nationality Act to extend for an additional 2 years the period for admission of an alien as a nonimmigrant under section 101(a)(15)(S) of such Act, and to authorize appropriations for the refuge assistance program under chapter 2 of title IV of the Immigration and Nationality Act.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2724. An act to make technical corrections to the Water Resources Development Act of 1999.

The message also announced that the Senate has passed bills and concurrent resolutions of the following titles in which concurrence of the House is requested:

S. 923. An act to promote full equality at the United Nations for Israel.

S. 1398. An act to clarify certain boundaries on maps relating to the Coastal Barrier Resources System.

S. 1809. An act to improve service systems for individuals with developmental disabilities, and for other purposes.

S. Con. Res. 30. Concurrent resolution recognizing the sacrifice and dedication of members of America's nongovernmental organizations (NGO's) and private volunteer organizations (PVO's) throughout their history and specifically in answer to their courageous response to recent disasters in Central America and Kosovo.

S. Con. Res. 68. Concurrent resolution expressing the sense of Congress on the occasion of the 10th anniversary of historic events in Central and Eastern Europe, particularly the Velvet Revolution in Czechoslovakia, and reaffirming the bonds of friendship and cooperation between the United States and the Czech and Slovak Republics.

WELCOMING RABBI JOEL TESSLER TO THE HOUSE OF REPRESENTATIVES

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

Mr. DEUTSCH. Mr. Speaker, it is my pleasure to introduce to the House Rabbi Tessler from Beth Shalom, Potomac, Maryland, who has really welcomed me into his community.

My family and I recently moved to Potomac and have found a community rabbi who has been there for 17 years and has made our home a home that we have been very lucky and blessed to be part of.

I wish him many, many years more in terms of striving to affect not just the area in suburban Washington but the entire country, in fact, the entire world.

TENTH ANNIVERSARY OF FALL OF BERLIN WALL

(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, 10 years ago, one of the most recognized symbols of the Cold War, the Berlin Wall, was leveled by the hammer of freedom. Today the entire free world commemorates the 10th anniversary of the fall of the Berlin Wall.

On November 9, 1989, when President Ronald Reagan's belief of peace through strength prevailed as demonstrators from East Germany began to tear down the wall, thus signifying the beginning of the end of one of the most oppressive and vicious regimes in history.

While the final collapse of Communism in the former Soviet Union occurred shortly after President Reagan left office, history shows that it was his bold vision and courageous actions that led to this historic event.

Ten years later, the world can still hear the echoes of the cheers that erupted at the Brandenburg Gate when President Reagan called upon Soviet leader Mikhail Gorbachev to tear down this wall.

Today we commemorate freedom and democracy throughout most of the world, and we also celebrate President Reagan's bold vision and courageous quest for freedom.

Mr. Speaker, as we continue our work in Congress, I urge all my colleagues to help celebrate the freedom and democracy that helps keep America strong.

CRIMINALS HAVE MORE RIGHTS THAN LAW-ABIDING CITIZENS

(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, a Minnesota factory worker said, enough is enough. His cabin was ripped off three times. His neighbors' cabins continue to be ripped off. The police said they could do nothing.

So Lenny Miller booby-trapped his cabin and busted the burglar red-handed. And guess what? Some bust. Lenny Miller is going to jail with a $12,000 fine. And the burglar is getting free health care.

Beam me up. Something is wrong, Mr. Speaker, when Americans cannot protect their own property and when criminals have more rights than law-abiding citizens.

There is one bright side. I yield back the fact that in Wisconsin there will not be many cabins ripped off this year thanks to Lenny Miller.

TRIBUTE TO SERVICE OF SERGEANT RONALD D. BUSBY

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

Ms. PRYCE of Ohio. Mr. Speaker, I rise today to commemorate the heroic service of Sergeant Ronald D. Busby.

From his hometown of Columbus, Ohio, Ronald answered the Vietnam War's call to arms by enlisting in the U.S. Army in 1967 at the age of 20. He quickly earned the rank of sergeant and began to distinguish himself for his acts of courage and leadership.

On the evening of August 8, 1968, Sergeant Busby led a night ambush patrol. For his actions that evening, he was awarded the Silver Star, Bronze Star, and Purple Heart.

Tragically, like so many of his fellow soldiers, Sergeant Busby was killed in action that fateful evening. He was three days shy of his 21st birthday.

I have heard the phrase ''All gave some, some gave all.'' For veterans like Sergeant Busby, those six words represent more than a phrase; they represent a legacy larger than the tallest mountain. His example lives on as a reminder that America will remain the land of the free only so long as it remains the home of the brave.

As we approach the final Veterans Day of the 20th century, let us remember Sergeant Busby and our countless veterans who served their country so faithfully for our freedoms.

TRIBUTE TO JANE SMALL, FOUNDER OF NATIONAL WOMEN'S POLITICAL CAUCUS

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

Ms. WOOLSEY. Mr. Speaker, I rise to pay tribute to Jane Small, one of the founding mothers of the National Women's Political Caucus. Jane recently passed away.

In 1971, Jane worked to found the NWPC to recruit and support women seeking elected office regardless of party affiliation.

During Jane's history, she guided the caucus through the ERA movement and the struggle to secure a woman's right for reproductive choice. As an inspired feminist and activist, Jane was a key player in electing numerous candidates across the Nation.

I know Jane particularly for her leadership in California politics. She served on both Governor Jerry Brown's and Governor Gray Davis' advisory committees on women's issues.

Jane was an activist. She was a leader. Women in the political arena live in her legacy. She will be forever missed.

PUBLIC SCHOOL TEACHERS—AMERICA'S UNSUNG HEROES

(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, public school teachers are America's unsung heroes. Day in and day out, they dedicate themselves to helping prepare our children for the future.

It is important to make sure our children's teachers have access to the training and tools they need to meet their commitment to students and parents.

But the Clinton-Gore administration disagrees. It wants the Federal Government to hire 100,000 teachers; but it puts hardly any emphasis on quality. That just does not cut it.

America's children do not just need teachers. They need good teachers. Many of the teachers out there are good, but many could be better and they deserve the chance to make themselves better.

Where new teachers are needed, new teachers should be hired. Where teacher quality is a greater concern, State and local initiatives like merit pay, teacher testing, tenure reform, and new opportunities for teacher development might be better uses of that money.

So let us give teachers the opportunity to be the best teachers they can be, and let us give America's children the best hope for a bright future.

AMERICA WANTS A CONGRESS THAT WORKS FOR THEM

(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, this Republican-led Congress is a Congress of catchy slogans and gimmicks in trying to pass the appropriation bills, gimmicks like trying to create a 13th month for budget purposes, gimmicks like trying to declare everything an emergency, like the 2000 census, even though it has been in the Constitution for over 200 years.

Now their latest gimmick is a button to tell themselves to stop raiding the Social Security Trust Fund. Instead of gimmicks in raiding the Social Security Trust Fund to pay for the emergency spending, American people ask for things that cost very little and would improve their lives, like a patients' bill of rights so they and their doctors can make their medical decisions and not the HMO; like an increase in the minimum wage so everyone can enjoy our strong economy; like 100,000 more teachers so we can have smaller class sizes; and prescription drug coverage for seniors.

Mr. Speaker, let us work for the American people. Unfortunately, under the Republican-led Congress, it is always the same old story. Tax breaks for the rich and a tax on Government. America wants a Congress that works for them, like Democrats are fighting for.

CONGRATULATING CESAR ''EDDY'' BLASS

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

Ms. ROS-LEHTINEN. Mr. Speaker, this morning I am delighted to congratulate Mr. Cesar ''Eddy'' Blass, who will celebrate 15 years as president of the American Peruvian Action Committee, APAC–USA.

Eddy has won the attention of his community with his service which has enabled him to contribute to our South Florida community. He is a dedicated, tireless advocate for the plight of the Peruvian Americans in their long-sought goals of residency and eventual U.S. citizenship.

Through his actions, Eddy has become a leader in the fight to unify Peruvian Americans throughout the United States; and, as a result of his extensive community service, he has received a host of awards, certificates, and recognition.

This Saturday APAC will commemorate its 15th anniversary and honor its president and founder, Cesar ''Eddy''

Blass. He has been an inspiration to the lives of his fellow countrymen, as well as for our entire South Florida community.

In honor of his 15th anniversary as president of the American Peruvian Action Committee, I ask my colleagues to join me today in paying tribute to Cesar ''Eddy'' Blass.

AMERICANS DESERVE TO HAVE ISSUES THEY CARE ABOUT MOST ADDRESSED

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

Mr. LAMPSON. Mr. Speaker, I rise today because this Republican Congress is failing American families.

The gentleman from Illinois (Speaker HASTERT) originally promised that the Republican-controlled Congress would finish work on the budget nearly 2 months ago. Yet, they continue to sit here and waste our time with political stunts.

The American people have become used to a Republican Congress that is no longer just a ''do nothing'' Congress, but a ''do the wrong thing'' Congress.

Americans deserve a budget; they deserve to have the issues they care about most addressed. There is positive legislation that our constituents are asking us to bring to the House floor. We could be saving Social Security, building new schools, reducing classroom size. We could be increasing the minimum wage so that workers can provide for their families. We could be ensuring patients' rights and putting the care back into health care. Instead, we are mired down in partisan rhetoric and debate.

Mr. Speaker, the people of southeast Texas and I have been waiting for over 5 weeks for the Republicans to finish the budget, but we cannot wait much longer. They need to quit stalling and together let us get the people's business done.

EDUCATION SPENDING BILL

(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, there are few issues in America more important than education. And in fact, the White House and Congress really do not disagree on the amount of money that we ought to spend on schools in this year's appropriations process. But what is holding up the debate is the question of how to spend those dollars.

The Republican party clearly believes that governors and State legislators, school board members, and principals and superintendents ought to be free to spend the dollars that we are appropriating as they see fit. But the President has a different idea. He wants to tell States specifically how they must spend the money.

In some States, hiring more teachers makes sense. In other States, it might not. But here is the President's answer to the question put by a reporter: ''Mr. President, on the issue of funding for teachers, sir, you resent it when Congress tells you to spend money in ways which you do not deem appropriate. Why should a state governor who would like to spend that money differently feel any differently?''

The President's answer: ''Well, because it's not their money.''

When you have an attitude like that in Washington that the taxpayers' money belongs to Washington and not the taxpayers, it explains how the White House is willing to squander the American tax dollars in a way that neglects children and abandons our schools.

SAY YES TO AGENDA FOR AMERICAN FAMILIES

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

Mr. ALLEN. Mr. Speaker, in response to the previous speaker, I sat yesterday with the superintendent of schools in the city of Portland and members of the school committee in Portland, Maine; and they do not want block grants. They want class size reduction above all else.

Mr. Speaker, this session is winding down and the Republican Congress has a sorry record. We have not done very much this session, and much of what we have done has been done wrong.

Many Democrats worked hard to pass campaign finance reform with the help of some Republicans here, but the leadership has killed it. Democrats tried to make our schools safer by passing modest gun safety laws, but Republicans said no. Democrats have worked to make health care safer for patients by passing a patients' bill of rights, but Republicans said no.

Democrats in this administration tried to make the world safer by ratifying the Comprehensive Test Ban Treaty. Republicans said no. Democrats have been working hard to get prescription drug legislation passed, but Republicans in the Committee on Ways and Means the other day said no.

Next year let us say yes to an agenda for American families. Let us say yes and get this agenda enacted.

AMERICAN FAMILIES DESERVE BETTER

(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 majority has failed to act on the basic issues facing hard-working Americans. The Republican leadership started the year by trying to spend the surplus on an $800 billion tax break for the wealthiest Americans, and they did this despite the fact that we need to strengthen and protect Social Security and Medicare. Their current plan fails to extend the life of Social Security by even one day. It neglects the need for a Medicare prescription drug benefit and hurts every American family in some way.

The Republican leadership stifles common sense gun safety measures like child safety locks and background checks at gun shows, despite the fact that 13 children are killed every single day by guns. The Republican leadership is siding with the gun lobby and letting gaping loopholes remain open.

This Congress should not leave town before its work is done.

The Republican leadership should listen to the public, enact sensible gun safety laws, strengthen Social Security and Medicare, pass a prescription drug benefit bill and a minimum wage bill. Our families deserve better.

RESPONSIBILITY IN EDUCATION

(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, we have all heard of the three Rs when it comes to education. Let me add a fourth R: responsibility, because responsibility is the key. Yesterday, Mr. Speaker, the President of the United States, responding to the press when it comes to judicious spending of educational dollars said, and I quote, ''Well, because it is not their money.''

Mr. Speaker, the President of the United States and my colleagues on the other side of the aisle ought to understand both the arithmetic and the responsibility. My liberal friends want the money to be controlled by the educational bureaucrats in Washington. We in the common sense, conservative majority say the money should be spent at home, first and foremost by teachers in the classrooms, by superintendents in the districts, and yes, by governors in the States, along with the respective superintendents of public education. Because while education is a national priority, it ultimately is a local concern.

Mr. Speaker, the President and my liberal friends should join with us to make sure that local control and responsibility is paramount.

FEDERAL GOVERNMENT SHOULD ALLOW MICROSOFT TO CONTINUE TO INNOVATE FOR AMERICANS

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

Mr. INSLEE. Mr. Speaker, I am calling on the United States Justice Department to put away any dream of breaking up Microsoft. Microsoft and its employees should not be punished for being one of the most creative, dynamic teams of people in American economic history.

Mr. Speaker, many of the people who work at Microsoft live in my district, and I can say with confidence that they are undaunted by this struggle, they are focused, and I am confident that their team will continue to bring new products to the American people.

Mr. Speaker, the American consumer has benefited amazingly by the innovation that is taking place in this industry. Computers are more powerful, software is more powerful, and more people have access to the Internet every day.

There is competition in this industry, and if my colleagues do not believe me, look at the stock market where millions are putting their hard-earned dollars investing in Microsoft's competitors, and that is fine. But, Mr. Speaker, consumers are enjoying the benefits of a vigorous electronic industry.

The Federal Government should put away any scheme to dismember the most creative, the most dynamic industry in the history of the world.

SQUEEZING A NICKEL OUT OF FIVE DOLLARS

(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, if a schoolboy gives his favorite teacher an apple, she will probably take a small bite out of it, something like that, just modest.

Now, if the taxpayer, his parents send the same apple in the form of tax dollars to the Federal Government, this is what they deem as their fair share, and that is the debate we are in today.

What we are asking is that the Department of Education, just like all the other Federal agencies, get $5 and squeeze a nickel out of it.

Now, I am a father of four. I have two teenagers and two who still love me. We have to sit around the kitchen table every night to come up with ways to save money. Mr. Speaker, if we can buy our gas for $1.07 a gallon, we go two more blocks so we do not have to pay $1.10. I do not buy new suits until they are on sale, and my colleagues might be thinking, well, I hope there is a sale coming up soon.

I do not get a steak when I go out to eat; I get chicken, and we do not buy Special K unless we get the 35 cents off coupon.

All we are asking of the Department of Education and all of the Federal bureaucracies in Washington is to find that little old nickel out of the $5 so that we can save Social Security.

UNFINISHED BUSINESS OF THE 106TH CONGRESS

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include therein extraneous material.)

Ms. BERKLEY. Mr. Speaker, when I came to Capitol Hill 10 months ago to represent my hometown of Las Vegas, I made a promise to fight for the fastest growing senior population in the country and for all of the working families like mine that have moved to Las Vegas in search of a better life.

There are two pieces of unfinished business that are critical to my district, a patients' bill of rights and the prescription drug coverage for southern Nevada citizens.

Over and over again I hear from my constituents, from working parents worried about health care coverage for their families, from seniors having to choose between buying food and buying medicine. They need help and they do not care about Washington politics. The patients' bill of rights is a bipartisan issue because everybody should be able to determine the best course of medical treatment and consultation with their own doctor. If HMOs make decisions like doctors, they should be held legally accountable like a doctor.

We need to enact a bill that protects the patients' bill of rights, not the HMO's bottom line. We need to pass a bill to ensure prescription drug coverage for seniors. We did a cost survey and found that uninsured seniors in my district pay two, three, or four times the price that insured seniors pay for some of the most common prescription drugs. These drugs keep them alive, but financially it is killing them.

I stand up for all of the seniors in my district.

MORE UNFINISHED BUSINESS OF THE 106TH CONGRESS

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, a few days ago I counted down the hours that we had remaining in this session, and I asked the question of what we could do for our young people in providing them safe schools. And I ask now the question with maybe less than 24 hours in this session, at least as we know it, whether or not this Congress is going to be known as having done good or having harmed the American people.

The question is, are we going to pass what the American people have asked us to, which is a patients' bill of rights, so that we can stop once and for all drive-by emergency rooms, so that we can give women the right to have their OB-GYN as their primary provider, so that we can have second opinions, so that we can reestablish the patient-physician relationship. While all of our loved ones are under the care of a physician, how tragic it is for them to have to call for a procedure and someone at a phone who does not even know who they are says no, you cannot have it.

We need a patients' bill of rights.

I did a study in my district, and how unfortunate it is that my seniors are having to pay light bills and having to pay rent, but cannot buy their prescriptions, of having to cut their prescriptions in half. What a tragedy. Yes, Mr. Speaker, is it not unfortunate that we do not have real gun safety in America when 80 percent of the American people say we want reasonable gun safety and we want our children to be safe in schools.

ACCOMPLISHMENTS OF THE 106TH CONGRESS

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

Mr. DREIER. Mr. Speaker, I am really stunned to listen to my colleagues on the other side of the aisle talk about the fact that the 106 Congress has not accomplished much of anything. I guess that is sort of their message today. So it is incumbent upon us to point out, once again, the great accomplishments that we have made in this Congress.

At the beginning, Speaker HASTERT stood right here on the opening day and talked about the need to improve public education. We have done that by passing the Education Flexibility Act so that local school districts can make decisions as to how to best educate their children. We passed the Teacher Empowerment Act, which also moves further in that direction.

Tax relief for working families. We did it; we did it. People are taxed more than they ever have been since the Second World War, and the President unfortunately vetoed that measure and the Democrats on the other side of the aisle voted against it. We said that we wanted to save Social Security and Medicare, and we all know that we have locked up the Social Security Trust Fund for the future, going well beyond the 62 percent that the President advocated when he stood here in his State of the Union message.

And rebuilding our Nation's defense capability. We passed the National Missile Defense bill, which is very, very important to our national security, and the Defense appropriations bill. We have accomplished a lot in this 106th Congress, and do not forget it.

GOP BUDGET GIMMICKS

(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, as the GOP leadership in Congress struggles to complete its appropriations work, now a full 40 days past the end of the fiscal year, I thought it fitting to examine their record of Social Security budget gimmicks this year. There simply are not enough apples in this city to demonstrate adequately what the Republican Party is doing here. They simply take apples from one basket and, before they put it in the other,

they take a couple of bites out of it and then they turn the apple around so Americans cannot see what they have done to that apple.

Recently the Republican majority in this chamber has gone around stating they are the only ones able to protect and strengthen Social Security. How come they elected their leader, a person who pledged, and I quote, ''to bite the bullet and phase Social Security out over a period of time.'' The fact is, Republicans have a history of voting against Social Security. In 1935, only one Republican, Frank Crowther of my own State of New York, had the courage to buck his party and vote against a Republican motion to recommit Title II to strike out old age and unemployment insurance provisions. It would have effectively killed Social Security as we know it today. Only one out of 96 Republicans had the courage to vote in favor of Social Security.

Mr. Speaker, I ask all of my colleagues to continue to support the Social Security system as we know it today.

INVESTMENTS IN EDUCATION FOR OUR CHILDREN

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

Mr. WU. Mr. Speaker, I was at home at the Verboort Sausage Festival this past weekend. It is a wonderful community event. I had the privilege of sitting next to Don and Lois Tayler. Lois Tayler's grandfather owned 100 acres on part of which Findley Elementary School now sits. As Oregon pioneers, the Findleys understood the value of education. And Don and Lois, who are schoolteachers now, know that that school has 900 kids in it, but it was built for 700.

This Congress has the ability to help with that situation, with school modernization and class size reduction, and we should not go home until we get those jobs done to keep faith with people like the Findleys, like the Taylers, and other Oregonians who made investments in their day for their children. We should be making similar investments in our day for our children.

□ 1030

IN THE FIELD OF EDUCATION, ONE SIZE DOES NOT FIT ALL, AND QUALITY MATTERS

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

Mr. STEARNS. Mr. Speaker, not everyone likes pickles on their hamburgers. For many years that preference meant a longer wait at McDonald's, because if you did not want what was already under the heat lamp, they had to do a specialty order. All those burgers under the heat lamp had pickles on them. But you did get a fresher burger.

People who like pickles on their hamburgers, on the other hand, usually did not have to wait. In fact the burgers were already waiting for them, so they were less fresh and lower quality.

All that has been changing. McDonald's restaurants now prepare your meals when you order them. This means you get exactly what you want. It is a fresher, higher quality product.

There are two simple truths inspiring the McDonald's reform: First, one size does not fit all. Second, quality matters.

Let us apply these simple truths to education reform. Instead of mandating new teachers, let us give the States and local communities the opportunity to ensure higher teacher quality and to spend that money on what they know will work in their schools, because one size does not fit all, and quality does matter.

PAYMENT OF U.N. ARREARS

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

Mrs. LOWEY. Mr. Speaker, the United States has earned the reputation as the United Nations' number one deadbeat. If my colleagues want to help restore our good name and regain our influence in the U.N., they need to join me today in supporting immediate and full repayment of our U.N. arrears.

This funding is critical to United States' foreign policy. It shows the international community that a commitment made by the United States means something. It gives the U.N. the resources it needs to carry on the important work it is doing around the globe.

The United States has a tremendous amount of influence within the U.N., but that level of influence decreases with every day that we do not pay our arrears. In fact, at the end of this year, we face the prospect of losing our vote in the General Assembly.

How can we expect the U.N. to continue to take our interests into account around the world? How can we expect them to fund the projects we support and to send peacekeeping troops to areas where we want to see more stability when we do not contribute? How do we expect to help to continue to reform the U.N. in a meaningful way if we do not pay our debt? Let us pay our dues now.

EDUCATION

(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, this week as we get down to the wire on budget negotiations, I rise to speak on behalf of education, our children, and the classroom as the priority in this country.

More teachers is a great idea. I applaud it. However, more teachers may not be the immediate or only need in some of our school districts. Some schools may need better teacher quality, they may need teacher training, teacher improvement. Some may need books and equipment, supplies. The list goes on.

The funding levels that we have been discussing are not at odds here. This is a question of who knows best, Washington bureaucrats, or local teachers and principals in the local public school classroom.

The President's goal may be noble enough, but his means of achieving it are flawed. Who can argue with the fact that local control is the best means by which we can truly support our schools? Let us empower our students, our teachers, with the tools that they need to take our kids to the next step of the learning process. Let us give our local schools more flexibility, more local control when we send this money back to the classroom.

MAKING IN ORDER AT ANY TIME CONSIDERATION OF CONFERENCE REPORT ON H.R. 1555, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2000

Mr. DREIER. Mr. Speaker, I ask unanimous consent that it be in order at any time to consider the conference report to accompany the bill (H.R. 1555) to authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes; that all points of order against the conference report and against its consideration be waived, that the conference report be considered as read when called up, and that House Resolution 364 be laid upon the table.

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

There was no objection.

WAIVING CERTAIN ENROLLMENT REQUIREMENTS FOR THE REMAINDER OF THE FIRST SESSION OF THE 106TH CONGRESS

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the joint resolution (H.J. Res. 76) waiving certain enrollment requirements for the remainder of the first session of the 106th Congress with respect to any bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2000, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

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

Mr. MCNULTY. Mr. Speaker, reserving the right to object, I yield to my

good friend, the gentleman from Ohio (Mr. BOEHNER) to explain to the House why we are considering this matter at this time.

Mr. BOEHNER. Mr. Speaker, I thank my colleague, the gentleman from New York, for yielding.

I think all of my colleagues know that U.S. Code requires engrossed bills that passed both Houses to be printed on parchment in a manner determined by the Joint Committee on Printing. For large bills such as the appropriation measures that are still under debate and discussion, this requires many additional hours of time that may in fact be saved and allow us to complete our work sooner if this statute is set aside on a temporary basis.

As most of my colleagues know, this is typically done at the end of every session of Congress, and we can in fact finish our work in a more timely manner and deliver these bills more quickly to the White House for their signature.

Mr. MCNULTY. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 76

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of sections 106 and 107 of title 1, United States Code, are waived for the remainder of the first session of the One Hundred Sixth Congress with respect to the printing (on parchment or otherwise) of the enrollment of any bill or joint resolution making general appropriations or continuing appropriations for the fiscal year ending September 30, 2000. The enrollment of any such bill or joint resolution shall be in such form as the Committee on House Administration of the House of Representatives certifies to be a true enrollment.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, House Resolution 365 is laid on the table

There was no objection.

RECOGNIZING AND HONORING THE HEROIC EFFORTS OF THE AIR NATIONAL GUARD'S 109TH AIRLIFT WING AND ITS RESCUE OF DR. JERRI NIELSEN FROM THE SOUTH POLE

Mr. REYNOLDS. Mr. Speaker, I ask unanimous consent that the Committee on Armed Services be discharged from further consideration of the concurrent resolution (H. Con. Res. 205) recognizing and honoring the heroic efforts of the Air National Guard's 109th Airlift Wing and its rescue of Dr. Jerri Nielsen from the South Pole, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

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

Mr. MCNULTY. Mr. Speaker, reserving the right to object, I shall not object, I rise simply to commend my colleague the gentleman from New York (Mr. REYNOLDS) for bringing my resolution to the floor, and to speak for a moment about its merits.

Mr. Speaker, Dr. Jerri Nielsen was stationed at the South Pole during this past Antarctic winter, and by virtue of self-examination discovered a lump in her breast. She performed a biopsy. She concluded that she had breast cancer. She administered chemotherapy and tried as best she could to endure the Antarctic winter until a plane could come and rescue her and give her more comprehensive medical treatment.

Mr. Speaker, the purpose of this resolution is to point out the heroism of those who went to rescue Dr. Nielsen. They are the members of the Air National Guard's 109th Airlift Wing, which is located in my congressional district in Glenville, New York. This mission departed the Samuel S. Stratton Air National Guard Base on October 6th, arrived at the South Pole on October 15th, traveled 11,410 nautical miles, and was led by Major George McAllister, Jr.

Mr. Speaker, this trip was historic in that Major McAllister and his crew became the first persons ever to land at the South Pole so soon after an antarctic winter. I know a little bit about the dangers faced by the members of the 109th, Mr. Speaker, because I have traveled with them both to the North Pole and to the South Pole. Of course, when I went with them, it was in the middle of the Antarctic summer, which is our winter. So when I was there in January of 1994 it was a balmy 40 degrees below zero. But in the Antarctic winter, the record low temperature is 128 degrees below zero. A complex piece of machinery like a C–130 cannot operate in that kind of temperature.

But Major McAllister and his crew went in as soon as possible, rescued Dr. Nielsen, and Dr. Nielsen is now receiving the treatment that she needs.

So on this particular occasion, I want to thank my colleague, the gentleman from New York (Mr. REYNOLDS) for allowing us to consider this resolution, and I would like, Mr. Speaker, just to mention the names of those who comprised that lifesaving crew.

They are Pilot Major George R. McAllister, Jr.; Senior Mission Commander Colonel Marion G. Pritchard; Co-pilot Major David Koltermann; Navigator Lieutenant Colonel Brian M. Fennessy; Engineer Chief Master Sergeant Michael T. Cristiano; Loadmasters, Senior Master Sergeant Kurt A. Garrison and Technical Sergeant David M. Vesper; Flight Nurse Major Kimberly Terpening; and Medical Technicians Chief Master Sergeant Michael Casatelli and Master Sergeant Kelly McDowell.

Mr. Speaker, I thank all of my colleagues for this opportunity to salute these true American heroes, and I urge all of my colleagues to support this joint resolution.

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

Mr. MCNULTY. I yield to the gentleman from New York.

Mr. REYNOLDS. Mr. Speaker, I want to commend my colleague, the gentleman from New York (Mr. MCNULTY), for bringing this resolution.

As a former member of the New York Air National Guard, I have had an opportunity to look at our airlift units across the State. Time and time again they have been called for emergency or war, and have served gallantly, taking on the responsibilities that have been assigned them.

As the gentleman from New York (Mr. MCNULTY) has indicated, this has been a very difficult mission to rescue Dr. Nielsen, who is a native of New York, in the aspect of bringing her back from the South Pole. Those who followed this as the mission was planned and then executed, and the history of it after it was completed, clearly saw the risk and danger that the men and women found themselves in as they were deployed to the South Pole in such tough winter conditions.

As a matter of fact, the mission was postponed for months until the weather was at a point they could land on the South Pole.

So to the 109th Airlift Wing, our congratulations, and to our colleague for bringing it forward.

Mr. MCNULTY. Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 205

Whereas the 109th Airlift Wing of the Air National Guard is based at Stratton Air National Guard Base in Glenville, New York;

Whereas the 109th was called upon by the United States Antarctic Program to undertake a medical evacuation mission to the South Pole to rescue Dr. Jerri Nielsen, a physician who diagnosed herself with breast cancer;

Whereas the 109th is the only unit in the world trained and equipped to attempt such a mission;

Whereas the 10 crew members were pilot Maj. George R. McAllister Jr., senior mission commander Col. Marion G. Pritchard, co-pilot Maj. David Koltermann, navigator Lt. Col. Bryan M. Fennessy, engineer Ch. M. Sgt. Michael T. Cristiano, loadmasters Sr. M. Sgt. Kurt A. Garrison and T. Sgt. David M. Vesper, flight nurse Maj. Kimberly Terpening, and medical technicians Ch. M. Sgt. Michael Casatelli and M. Sgt. Kelly McDowell;

Whereas the crew departed Stratton Air Base for McMurdo Station in Antarctica via Christchurch, New Zealand, on October 6, 1999;

Whereas on October 15, 1999, Aircraft No. 096 departed McMurdo for the South Pole, where the temperature was approximately −K53 degrees Celsius;

Whereas Major McAllister piloted a 130,000 pound LC–130 Hercules cargo plane equipped with Teflon-coated skis to a safe landing on an icy runway with visibility barely above minimums established for safe operations;

Whereas less than 25 minutes later, following an emotional goodbye and brief medical evaluation, Dr. Nielsen and the crew headed back to McMurdo Station;

Whereas the mission lasted 9 days and covered 11,410 nautical miles; and

Whereas Major McAllister became the first person ever to land on a polar ice cap at this time of year: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress recognizes and honors the crew of the Air National Guard's 109th Airlift Wing for its heroic efforts in rescuing Dr. Jerri Nielsen from the South Pole.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Any record votes on a postponed question will be taken after debate has concluded on all motions to suspend the rules.

ELIM NATIVE CORPORATION LAND RESTORATION ACT

Mr. YOUNG of Alaska. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3090) to amend the Alaska Native Claims Settlement Act to restore certain lands to the Elim Native Corporation, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3090

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

SECTION 1. ELIM NATIVE CORPORATION LAND RESTORATION.

Section 19 of the Alaska Native Claims Settlement Act (43 U.S.C. 1618) is amended by adding at the end the following new subsection:

''(c)(1) FINDINGS.—The Congress finds that—

''(A) approximately 350,000 acres of land were withdrawn by Executive Orders in 1917 for the use of the United States Bureau of Education and of the Natives of Indigenous Alaskan race;

''(B) these lands comprised the Norton Bay Reservation (later referred to as Norton Bay Native Reserve) and were set aside for the benefit of the Native inhabitants of the Eskimo Village of Elim, Alaska;

''(C) in 1929, 50,000 acres of land were deleted from the Norton Bay Reservation by Executive Order.

''(D) the lands were deleted from the Reservation for the benefit of others;

''(E) the deleted lands were not available to the Native inhabitants of Elim under subsection (b) of this section at the time of passage of this Act;

''(F) the deletion of these lands has been and continues to be a source of deep concern to the indigenous people of Elim; and

''(G) until this matter is dealt with, it will continue to be a source of great frustration and sense of loss among the shareholders of the Elim Native Corporation and their descendants.

''(2) WITHDRAWAL.—The lands depicted and designated 'Withdrawal Area' on the map dated October 19, 1999, along with their legal descriptions, on file with the Bureau of Land Management, and entitled 'Land Withdrawal Elim Native Corporation', are hereby withdrawn, subject to valid existing rights, from all forms of appropriation or disposition under the public land laws, including the mining and mineral leasing laws, for a period of 2 years from the date of enactment of this subsection, for selection by the Elim Native Corporation (hereinafter referred to as 'Elim').

''(3) AUTHORITY TO SELECT AND CONVEY.—Elim is authorized to select in accordance with the rules set out in this paragraph, 50,000 acres of land (hereinafter referred to as 'Conveyance Lands') within the boundary of the Withdrawal Area described in paragraph (2). The Secretary is authorized and directed to convey to Elim in fee the surface and subsurface estates to 50,000 acres of valid selections in the Withdrawal Area, subject to the covenants, reservations, terms and conditions and other provisions of this subsection.

''(A) Elim shall have 2 years from the date of the enactment of this subsection in which to file its selection of no more than 60,000 acres of land from the area described in paragraph (2). The selection application shall be filed with the Bureau of Land Management, Alaska State Office, shall describe a single tract adjacent to U.S. Survey No. 2548, Alaska, and shall be reasonably compact, contiguous, and in whole sections except when separated by unavailable land or when the remaining entitlement is less than a whole section. Elim shall prioritize its selections made pursuant to this subsection at the time such selections are filed, and such prioritization shall be irrevocable. Any lands selected shall remain withdrawn until conveyed or full entitlement has been achieved.

''(B) The selection filed by Elim pursuant to this subsection shall be subject to valid existing rights and may not supercede prior selections of the State of Alaska, any Native corporation, or valid entries of any private individual unless such selection or entry is relinquished, rejected, or abandoned prior to conveyance to Elim.

''(C) Upon receipt of the Conveyance Lands, Elim shall have all legal rights and privileges as landowner, subject only to the covenants, reservations, terms and conditions specified in this subsection.

''(D) Selection by Elim of lands under this subsection and final conveyance of those lands to Elim shall constitute full satisfaction of any claim of entitlement of Elim with respect to its land entitlement.

''(4) COVENANTS, RESERVATIONS, TERMS, AND CONDITIONS.—The covenants, reservations, terms and conditions set forth in this paragraph and in paragraphs (5) and (6) with respect to the Conveyance Lands shall run with the land and shall be incorporated into the interim conveyance, if any, and patent conveying the lands to Elim.

''(A) Consistent with paragraph (3)(C) and subject to the applicable covenants, reservations, terms, and conditions contained in this paragraph and paragraphs (5) and (6), Elim shall have all rights to the timber resources of the Conveyance Lands for any use including, but not limited to, construction of homes, cabins, for firewood and other domestic uses on any Elim lands: *Provided,* That cutting and removal of Merchantable Timber from the Conveyance Lands for sale shall not be permitted: *Provided further,* That Elim shall not construct roads and related infrastructure for the support of such cutting and removal of timber for sale or permit others to do so. 'Merchantable Timber' means timber that can be harvested and marketed by a prudent operator.

''(B) Public Land Order 5563 of December 16, 1975, which made hot or medicinal springs available to other Native Corporations for selection and conveyance, is hereby modified to the extent necessary to permit the selection by Elim of the lands heretofore encompassed in any withdrawal of hot or medicinal springs and is withdrawn pursuant to this subsection. The Secretary is authorized and directed to convey such selections of hot or medicinal springs (hereinafter referred to as 'hot springs') subject to applicable covenants, reservations, terms and conditions contained in paragraphs (5) and (6).

''(C) Should Elim select and have conveyed to it lands encompassing portions of the Tubutulik River or Clear Creek, or both, Elim shall not permit surface occupancy or knowingly permit any other activity on those portions of land lying within the bed of or within 300 feet of the ordinary high waterline of either or both of these water courses for purposes associated with mineral or other development or activity if they would cause or are likely to cause erosion or siltation of either water course to an extent that would significantly adversely impact water quality or fish habitat.

''(5) RIGHTS RETAINED BY THE U.S.—With respect to conveyances authorized in paragraph (3), the following rights are retained by the United States:

''(A) To enter upon the conveyance lands, after providing reasonable advance notice in writing to Elim and after providing Elim with an opportunity to have a representative present upon such entry, in order to achieve the purpose and enforce the terms of this paragraph and paragraphs (4) and (6).

''(B) To have, in addition to such rights held by Elim, all rights and remedies available against persons, jointly or severally, who cut or remove Merchantable Timber for sale.

''(C) In cooperation with Elim, the right, but not the obligation, to reforest in the event previously existing Merchantable Timber is destroyed by fire, wind, insects, disease, or other similar manmade or natural occurrence (excluding manmade occurrences resulting from the exercise by Elim of its lawful rights to use the Conveyance Lands).

''(D) The right of ingress and egress over easements under section 17(b) for the public to visit, for noncommercial purposes, hot springs located on the Conveyance Lands and to use any part of the hot springs that is not commercially developed.

''(E) The right to enter upon the lands containing hot springs for the purpose of conducting scientific research on such hot springs and to use the results of such research without compensation to Elim. Elim shall have an equal right to conduct research on the hot springs and to use the results of such research without compensation to the United States.

''(F) A covenant that commercial development of the hot springs by Elim or its successors, assigns, or grantees shall include the right to develop only a maximum of 15 percent of the hot springs and any land within 1/4 mile of the hot springs. Such commercial development shall not alter the natural hydrologic or thermal system associated with the hot springs. Not less than 85 percent of the lands within 1/4 mile of the hot springs shall be left in their natural state.

''(G) The right to exercise prosecutorial discretion in the enforcement of any covenant, reservation, term or condition shall not waive the right to enforce any covenant, reservation, term or condition.

''(6) GENERAL.—

''(A) MEMORANDUM OF UNDERSTANDING.—The Secretary and Elim shall, acting in good faith, enter into a Memorandum of Understanding (hereinafter referred to as the 'MOU') to implement the provisions of this subsection. The MOU shall include among its provisions reasonable measures to protect plants and animals in the hot springs on the Conveyance Lands and on the land within ¼ mile of the hot springs. The parties shall agree to meet periodically to review the matters contained in the MOU and to exercise their right to amend, replace, or extend the MOU. Such reviews shall include the authority to relocate any of the easements set forth in subparagraph (D) if the parties deem it advisable.

''(B) INCORPORATION OF TERMS.—Elim shall incorporate the covenants, reservations, terms and conditions, in this subsection in any deed or other legal instrument by which it divests itself of any interest in all or a portion of the Conveyance Lands, including without limitation, a leasehold interest.

''(C) SECTION 17(b) EASEMENTS.—The Bureau of Land Management, in consultation with Elim, shall reserve in the conveyance to Elim easements to the United States pursuant to subsection 17(b) that are not in conflict with other easements specified in this paragraph.

''(D) OTHER EASEMENTS.—The Bureau of Land Management, in consultation with Elim, shall reserve easements which shall include the right of the public to enter upon and travel along the Tubutulik River and Clear Creek within the Conveyance Lands. Such easements shall also include easements for trails confined to foot travel along, and which may be established along each bank of, the Tubutulik River and Clear Creek. Such trails shall be 25 feet wide and upland of the ordinary high waterline of the water courses. The trails may deviate from the banks as necessary to go around man-made or natural obstructions or to portage around hazardous stretches of water. The easements shall also include one-acre sites along the water courses at reasonable intervals, selected in consultation with Elim, which may be used to launch or take out water craft from the water courses and to camp in nonpermanent structures for a period not to exceed 24 hours without the consent of Elim.

''(E) INHOLDERS.—The owners of lands held within the exterior boundaries of lands conveyed to Elim shall have all rights of ingress and egress to be vested in the inholder and the inholder's agents, employees, co-venturers, licensees, subsequent grantees, or invitees, and such easements shall be reserved in the conveyance to Elim. The inholder may not exercise the right of ingress and egress in a manner that may result in substantial damage to the surface of the lands or make any permanent improvements on Conveyance Lands without the prior consent of Elim.

''(F) IDITAROD TRAIL.—The Bureau of Land Management may reserve an easement for the Iditarod National Historic Trail in the conveyance to Elim.

''(7) IMPLEMENTATION.—There are authorized to be appropriated such sums as may be necessary to implement this subsection.''.

SEC. 2. COMMON STOCK TO ADOPTED-OUT DESCENDANTS.

Section 7(h)(1)(C)(iii) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(h)(1)(C)(iii)) is amended by inserting before the period at the end the following: '', notwithstanding an adoption, relinquishment, or termination of parental rights that may have altered or severed the legal relationship between the gift donor and recipient''.

SEC. 3. DEFINITION OF SETTLEMENT TRUST.

Section 3(t)(2) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(t)(2)) is amended by striking ''sole'' and all that follows through ''Stock'' and inserting ''benefit of shareholders, Natives, and descendants of Natives,''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Oregon (Mr. DEFAZIO) each will control 20 minutes.

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

GENERAL LEAVE

Mr. YOUNG of Alaska. 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. 3090.

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

There was no objection.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3090 is a bill that I introduced in consultation with the Alaska Federation of Natives and ongoing negotiations and redrafts with the Department of the Interior and the Elim Native Corporation.

Considerable time has been spent to resolve the Elim land provision, and I want to especially thank Cindy Alona, Marilyn Heiman, Paul Kirton, Kim Harb, and Chip Markell of the Department of the Interior, Roy Jones and Jeff Petrich, minority chief counsel and committee staff, for their commitment to resolve this important land issue for the Elim Native Corporation.

H.R. 3090 will authorize the Elim Native Corporation, a village corporation established under section 19(b) of the Alaska Native Claims Settlement Act, to select and have conveyed to it 50,000 acres of Federal land in an area north of the former Norton Bay Reservation.

This acreage will replace 50,000 acres deleted from the reservation in 1929 by executive order from the reservation established for the benefit and use of the people whose descendents are today the shareholders of the Native Village Corporation. This bill would also amend ANCSA to permit shareholder common stock to be transferred to adopted-out native children and descendents.

□ 1045

The last provision of the bill would amend the definition of ''settlement trust'' under ANCSA to permit Native Corporations to establish settlement trusts in which potential beneficiaries include shareholders, Natives and the descendants of Natives. Because ANCSA was enacted to benefit all Natives, this amendment is in keeping with that original intent of that legislation.

At the same time, the interests of the Alaska Native Corporation shareholders are protected because this option is available only to those corporations whose shareholders vote, by a majority of all outstanding voting shares, to benefit nonshareholders.

Mr. Speaker, I also wanted to voice the support of the State of Alaska for this bill. The State of Alaska could not submit anything in writing; however, have verbally supported this important bill for the people of Alaska.

The Coastal Coalition, a conservation group in Alaska, and Donald C. Mitchell, a noted ANCSA attorney, have both submitted letters in support of the bill. As my colleagues can see, we have a wide range of support for passage of this bill.

Mr. Speaker, I urge my colleagues to support the passage of this legislation.

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

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

Mr. Speaker, I rise in support of this important legislation. It is long past time to right a wrong done 70 years ago. I am particularly pleased that we in this Congress can act to do that.

I have a longer statement which I would like entered in the RECORD, and I would just reflect in closing that it is always a good day when we can act to undo the wrongs done by a Republican President.

Mr. Speaker, I rise in support of this bill. While Congress generally should be very cautious when amending the 1971 Alaska Native Claims Settlement Act to change land allocations, in the case of Elim Native Corporation there are unique circumstances and special equities which justify this legislation.

Without the knowledge or consent of the Eskimo village of Elim, President Hoover deleted 50,000 acres from the Norton Bay Reservation in 1929. Although the 1971 Alaska Native Claims Settlement Act provided for the conveyance of 300,000 acres to Elim Native Corporation, reflecting the boundaries of the Norton Bay Reservation as it existed at that time, the residents of Elim have long been seeking to have the deleted lands restored.

While the Department of the Interior has maintained that Elim does not have a legal entitlement to the additional 50,000 acres, it is my understanding that they, along with the State of Alaska, are now prepared to support this legislation as a matter of equity.

And there does appear to be substantial equities in this case. According to Don Mitchell, a historian and former counsel to the Alaska Federation of Natives, the deletion of 50,000 acres from the Norton Bay Reservation is ''one of the most grievous cases of social and economic injustice'' in Alaska history.

Because the original reservation lands are no longer available for selection, the bill provides for an alternative conveyance of 50,000 acres which are adjacent to the corporation's existing lands. As amended, the bill incorporates language which has been negotiated with the Department of the Interior and includes important conservation safeguards such as easements for public access, restrictions on commercial timber harvest, and nondevelopment buffers on river corridors.

Mr. Speaker, I would be remiss without recognizing the crucial role of Representative

DON YOUNG in developing this legislation. The villagers of Elim have a strong champion as the Chairman of the Committee on Resources and without his dedication to their cause we would not be here on the House floor today.

I urge that my colleagues support the bill.

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

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

The SPEAKER pro tempore (Mr. HOBSON). The question is on the motion offered by the gentleman from Alaska (Mr. YOUNG) that the House suspend the rules and pass the bill, H.R. 3090, 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.

AQUATIC RESOURCES RESTORATION IN THE NORTHWEST AND CALIFORNIA

Mr. SAXTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1444) to authorize the Secretary of the Army to develop and implement projects for fish screens, fish passage devices, and other similar measures to mitigate adverse impacts associated with irrigation system water diversions by local governmental entities in the States of Oregon, Washington, Montana, and Idaho, as amended.

The Clerk read as follows:

H.R. 1444

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

SECTION 1. AQUATIC RESOURCES RESTORATION IN THE NORTHWEST AND IN CALIFORNIA.

(a) IN GENERAL.—In cooperation with other Federal agencies, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service and in consultation with the Bureau of Reclamation, may develop and implement projects for fish screens, fish passage devices, and related features agreed to by non-Federal interests, relevant Federal agencies, and affected States to mitigate adverse impacts to fisheries resulting from the construction and operation of water diversions by local governmental entities in the States of Oregon, Washington, Montana, Idaho, and California. Priority shall be given to any project that has a total cost of less than $2,500,000.

(b) GOALS.—The goals of the program under subsection (a) shall be—

(1) to decrease the incidence of juvenile and adult fish entering water supply systems; and

(2) to decrease fish mortality associated with the withdrawal of water for irrigation and other purposes without impairing the continued withdrawal of water for that purpose.

(c) PARTICIPATION BY NON-FEDERAL ENTITIES.—Non-Federal participation in the program under subsection (a) shall be voluntary. The Secretary shall take no action that would result in any non-Federal entity being held financially responsible for any action unless the entity applies to participate in the program.

(d) EVALUATION AND PRIORITIZATION OF PROJECTS.—Evaluation and prioritization of projects for development and implementation under this section shall be conducted on the basis of—

(1) assisting entities in their compliance with the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(2) cost effectiveness;

(3) size of diversion;

(4) availability of other funding sources; and

(5) opportunity for biological benefit to be achieved with improved conditions.

(e) REQUIREMENTS.—A fish screen, fish passage device, or related feature shall not be eligible for funding under subsection (a) unless—

(1) it meets the requirements of the United States Fish and Wildlife Service or the National Marine Fisheries Service, as applicable, and any State requirements; and

(2) it is agreed to by all interested Federal and non-Federal entities.

(f) COST SHARING.—

(1) IN GENERAL.—(A) Development and implementation of projects under this section on lands owned by the United States shall be at full Federal expense.

(B) The non-Federal share of the cost of development and implementation of any project under this section on lands that are not owned by the United States shall be 35 percent.

(2) IN-KIND CONTRIBUTIONS.—(A) For any project under this section on lands that are not owned by the United States, the non-Federal participants shall provide any lands, easements, rights-of-way, dredged material disposal areas, and relocations that are necessary for the project.

(B) The value of lands, easements, rights-of-way, dredged material disposal areas, and relocations provided under this paragraph for a project shall be credited toward the non-Federal share of the costs of the project under paragraph (1).

(3) OMRR&R.—(A) The non-Federal interests shall be responsible for all costs associated with operating, maintaining, repairing, rehabilitating, and replacing all projects carried out under this section on lands that are not owned by the United States.

(B) Costs associated with operating, maintaining, repairing, rehabilitating, and replacing all projects carried out under this section on lands owned by the United States shall be a Federal expense.

(g) CONSULTATION AND USE OF EXISTING DATA AND STUDIES.—In carrying out this section, the Secretary shall consult with other Federal, State, and local agencies and make maximum use of data and studies in existence on the date of enactment of this Act.

(h) LIMITATION ON ELIGIBILITY FOR FUNDING.—No project applicant pursuant to this section may obtain funds under this section if they are also receiving funds from another federally funded program for the same purpose.

(i) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $25,000,000 for each of fiscal years 2001 through 2005.

(2) LIMITATIONS.—(A) Not more than ⅓ of the total amount of funds appropriated under this section may be used for projects in any single State.

(B) Not more than 6 percent of the amount of funds appropriated under this section for a fiscal year may be used for administration of this section.

(3) INTERIM REPORT.—Upon the expiration of the 3d fiscal year for which amounts are available to carry out this section, the Secretary of the Interior shall report to the Congress describing the accomplishments to date under this section and the projects that will be completed with amounts provided under this section for the 4th and 5th fiscal years for which such amounts are available.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SAXTON) and the gentleman from Oregon (Mr. DEFAZIO) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SAXTON).

GENERAL LEAVE

Mr. SAXTON. 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. 1444, and to include extraneous material.

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

There was no objection.

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

Mr. Speaker, H.R. 1444, as amended by the Committee on Resources, will authorize the Secretary of Interior, working through the Fish and Wildlife Service and in consultation with the Bureau of Reclamation, to implement projects to construct fish screens, fish passage devices and other related measures to mitigate the effects of water diversions caused by irrigation systems.

The bill was introduced by my good friend, the gentleman from Oregon (Mr. DEFAZIO) and the gentleman from Oregon (Mr. WALDEN), both of whom are going to speak and explain the legislation. But I would like to commend them both for the hard work that they have put into this effort. Without them, surely the bill would not be here on the floor today.

Mr. Speaker, State and Federal law currently require the installation of fish screens on many irrigation diversions for agriculture to protect migrating juvenile salmon. While the Federal and State agencies responsible for managing the Columbia River system have worked diligently to install fish screens and fish passage devices, more work is urgently needed.

H.R. 1444 would allow State and Federal agencies to continue installing fish screens and fish passage devices. Furthermore, the Secretary will be required to consult with other Federal, State, and local agencies to make maximum use of data and studies in existence on the date of enactment of this act.

I believe this bill will help protect the salmon resources of the Pacific Northwest while allowing the agriculture industry to continue its operations. This is a noncontroversial bill and I hope everyone will support it.

Mr. Speaker, before I reserve the balance of my time, let me just make note that Marcia Stewart, who is here with us today, legislative assistant to the chief counsel, has done yeoman's work on this bill and has been a great help to all of us over the last several years since she has been with us. She came to us 6 years ago in 1993, and has been extremely successful. As a matter of fact,

the last bill that she staffed for us here on the floor passed 412 to 0. So, Mr. Speaker, we are pleased that she has been with us and such a productive member of our staff and we will certainly miss her.

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

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

Mr. Speaker, this bill does have strong bipartisan support in both the House and the Senate. And shortly, we will hear from the gentleman from Oregon (Mr. WALDEN), my colleague. He and I are the original cosponsors of this legislation in the House.

H.R. 1444 would set up a fish screen construction program for irrigation projects in Idaho, Washington, Montana, Oregon, and California.

This is a bill that is good news for salmon, other fish species which are on the verge of being endangered or threatened, and good news for local economies, for farmers, and good news for the Federal taxpayers.

It requires a local match share of 35 percent. But with the Federal Government investing these funds in the fish screens, ultimately we may avoid the endangerment of numerous species of fish and help promote the recovery of salmon. Today, many of these irrigation diversions are unscreened and salmon smolts do not do too well when they are pulled out of the main stem of the Columbia or one of its tributaries and deposited into an irrigation ditch or an irrigation project which does not return directly to the river or the tributary.

Mr. Speaker, this simple step will prevent that in the future. We should be screening all the diversions on fish-bearing rivers in the Northwest and into California because we are investing hundreds of millions, ultimately billions of dollars elsewhere to help recover these species. But for the lack of a few dollars being spent at each of these diversions on both Federal lands and private lands, many of those dollars are not being spent as effectively as they could.

So, this legislation is a win/win for both the fish and the farmers and the taxpayers, and I recommend it to my colleagues.

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

Mr. SAXTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Hood River, Oregon (Mr. WALDEN).

Mr. WALDEN of Oregon. Mr. Speaker, it is sure nice to stand here today and recognize that we have built a partnership that will actually get things done, and I want to commend the gentleman from Oregon (Mr. DEFAZIO), my colleague, for his work on this legislation and thank him for his involvement in this.

Mr. Speaker, I rise in support of H.R. 1444, a bill that will help protect the threatened and endangered salmon stocks on the West Coast while assisting the farmers who are voluntarily seeking measures to protect these stocks, albeit at great financial cost.

Under H.R. 1444, the United States Fish and Wildlife Service and the Bureau of Reclamation would be allowed to develop and implement projects for fish screens, fish passage devices, and other facilities in the States of Oregon, Washington, Montana, Idaho and California. These fish screens would prevent juvenile and adult salmon from passing through irrigation diversions and gaining access to ditches and water intake devices.

Mr. Speaker, presently, irrigation districts throughout the West are being mandated to comply with the Endangered Species Act. In order to comply with the ESA and other regulations, irrigation districts are required to construct these sophisticated devices to prevent salmon and other fish from gaining access to their ditches. The construction of these devices come at great expense to the farmers, without any return on their capital costs.

Under H.R. 1444, farmers would be allowed to enter into voluntary agreements with the U.S. Fish and Wildlife Service or the Bureau of Reclamation to share the costs of construction of these fish screen devices. Privately held lands and irrigation districts would have to put up 35 percent of the cost with the government paying the remainder.

The farmers in my district, including those belonging to the Lower Valley Ditch District in Wallowa County and Talent Irrigation District in Jackson County say this is exactly the type of assistance they need to help them be able to protect these salmon and other fish in the rivers and streams.

They are not looking for a way to avoid ESA; they are merely looking for an affordable way to provide the systems to help prevent the loss of fish.

This cost-share program gives our farmers in the West some assistance in building these environmentally friendly fish screening devices, while simultaneously easing the burden of taking affirmative, proactive actions. It is a win/win proposal for the fish and the farmers.

Mr. Speaker, I strongly support passage of H.R. 1444, the DeFazio-Walden fish screen bill.

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

Mr. Speaker, I thank the gentleman from Oregon (Mr. WALDEN) for his assistance in drafting and moving this bill through the House. As he pointed out, the need is great. In fact, numbers I have seen estimate that we could spend more than twice the amount of money allocated for these five states in Oregon alone to take care of this problem. So this is not an ultimate solution, but it is a down payment and something that will help us move along in protecting these fish in the Pacific Northwest and in northern California.

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

Mr. THOMPSON of California. Mr. Speaker, I thank the gentleman from Oregon (Mr. DEFAZIO) for yielding me this time. He has been on the forefront leading this effort to help the salmon fisheries throughout the entire Pacific Northwest, and for that I am greatly appreciative.

Mr. Speaker, virtually every salmon stock in northern California has been added to the endangered species list. State and Federal regulations have cut fishing effort to an all-time low and this has had a devastating impact on the area that I represent in California, not just for the sport and the commercial fisheries, but for virtually every industry or every community of interest that has to operate in that part of these great United States.

Mr. Speaker, we need to do everything that we possibly can to help bring back the salmon stocks in the Pacific Northwest, and my district is no different. This is one very important step to be able to provide help for screening in regard to water diversions. It is going to help a great deal. It is not only going to help the coastal area that I represent, but the inland area as well.

Mr. Speaker, I would like to commend the gentleman from Oregon (Mr. DEFAZIO) and ask all of my colleagues to vote in support of this measure.

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

Mr. Speaker, I thank the gentleman from California (Mr. THOMPSON). He has been a real force in helping to move this legislation forward, and particularly in making certain that his State and his district are included within the scope of the legislation. Without his perseverance, that would not have happened.

Mr. Speaker, at this time I would like to thank a few staff who helped with the issue. Although this would seem kind of like a no-brainer since it is good for fish, the farmers, the economy and the Federal taxpayers, it was not easy working with the numerous agencies of jurisdiction and potential jurisdiction, and it took a while to wend our way through this maze. So Cynthia Suchman, Ben Grumbles, Bob Faber, Steve Lanich, and Kathie Eastman of my staff were all key with helping move this bill forward.

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

Mr. SAXTON. 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 Jersey (Mr. SAXTON) that the House suspend the rules and pass the bill, H.R. 1444, as amended.

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

The title of the bill was amended so as to read: ''A bill to authorize the Secretary of the Interior to plan, design,

and construct fish screens, fish passage devices, and related features to mitigate adverse impacts associated with irrigation system water diversions by local governmental entities in the States of Oregon, Washington, Montana, Idaho, and California.''.

A motion to reconsider was laid on the table.

□ 1100

COMMEMORATING THE ''I HAVE A DREAM'' SPEECH AT THE LINCOLN MEMORIAL

Mr. HANSEN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2879) to provide for the placement at the Lincoln Memorial of a plaque commemorating the speech of Martin Luther King, Jr., known as the ''I Have A Dream'' speech.

The Clerk read as follows:

H.R. 2879

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

SECTION 1. ADDITION OF PLAQUE AT LINCOLN MEMORIAL COMMEMORATING MARTIN LUTHER KING, JUNIOR'S, I HAVE A DREAM SPEECH.

(a) PLACEMENT OF PLAQUE.—The Secretary of the Interior shall insert on the steps of the Lincoln Memorial in the District of Columbia a suitable plaque to commemorate the speech of Martin Luther King, Jr., known as the ''I Have A Dream'' speech. The plaque shall be placed at the location on the steps where Martin Luther King, Jr., delivered the speech on August 28, 1963.

(b) ACCEPTANCE OF CONTRIBUTIONS.—The Secretary of the Interior may accept contributions to help defray the cost of preparing the plaque and inserting the plaque on the steps of the Lincoln Memorial as required by subsection (a). Amounts received shall be credited to the appropriation supporting the maintenance and operation of the Lincoln Memorial.

The SPEAKER pro tempore (Mr. HOBSON). Pursuant to the rule, the gentleman from Utah (Mr. HANSEN) and the gentleman from Oregon (Mr. DEFAZIO) 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, I rise in support of H.R. 2879, introduced by the gentlewoman from Kentucky (Mrs. NORTHUP).

H.R. 2879 would provide for the placement at the Lincoln Memorial of a plaque commemorating the speech of Martin Luther King, Jr., known as the ''I Have A Dream'' speech. The plaque would be placed in an appropriate location on the steps of the Lincoln Memorial where Dr. King delivered his famous civil rights speech on August 28, 1963.

This bill also directs the Secretary of the Interior to accept contributions to help offset any costs associated with the preparation and placement of the plaque.

Mr. Speaker, this is an important bill and has bipartisan support. I urge all my colleagues to support H.R. 2879.

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

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

Mr. Speaker, H.R. 2879 directs the Secretary of the Interior to insert on the steps of the Lincoln Memorial a plaque, a plaque that would commemorate the speech of Dr. Martin Luther King, Jr., known as the ''I Have A Dream'' speech.

Several years ago, the gentleman from Georgia (Mr. LEWIS), who was present and was one of the speakers that famous day in 1963 along with Dr. King, was instrumental in a campaign by school children and others in establishing a permanent exhibit at the Lincoln Memorial commemorating the important civil rights events, including the ''I Have A Dream'' speech that occurred at the Memorial.

It is our understanding that H.R. 2879 is noncontroversial and that it is consistent with what has been done previously at the Memorial to commemorate similar events.

I strongly support passage of this legislation and this permanent commemoration of that historic speech in American history.

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 Kentucky (Mrs. NORTHUP), the author of this legislation.

Mrs. NORTHUP. Mr. Speaker, all of us are touched each year as we see how many Americans, particularly school children, come to Washington to, not just view the buildings, but to be inspired by our history and be inspired to become leaders themselves.

They move around this city, they come to this Capitol, they come to our memorials, and they are reminded as they stand in the places that previous leaders have stood, as they understand what role those leaders had in the history of this country.

I had a constituent that came to Washington in 1997, and he wrote me the most moving letter, and I would like to read a couple of paragraphs from that letter.

He said, ''My wife and I walked to the Lincoln Memorial where, at the steps of the Memorial to one of our Nation's greatest Presidents, Martin Luther King delivered the 'I Have A Dream' speech.

''I looked for the spot on which Martin Luther King stood when he spoke. I looked for a marker to remind me and others for a single moment on a hot August day, a descendant of a slave held the most prominent space in our Nation and delivered words that will always stay with that space. I could not find a marker or the words on that step.''

Later in his letter, he said that ''I saw a day when I would bring my yet unborn children to the spot where Martin Luther King spoke, and I could show them that marker and read them the words of his dream. I could tell them that this is still a Nation where a simple Kentucky farmer could rise to the heights of President, and the son of a slave could inspire future generations with the power of his words and his compassion.''

Mr. Speaker, it is hard to imagine that school children and Americans from all over this country could come and walk in this most important spot in this Capital, see where our leaders have changed the course of this country's history, and not have a recognition that, on that spot, on those steps was a place where Dr. Martin Luther King gave his ''I Had A Dream'' speech.

For many of these children, it might be the first time that they ever really would be called to understand what ''that place in history'' meant.

But for those of us that can remember the changes that went on between 1960 and 1965 and the role that Dr. Martin Luther King had in calling us forward to change the laws of this country and the practices that separated us so badly, it is important that all Americans recognize that spot and that leader and the difference that he made in this country.

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

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

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank the gentleman from Oregon for yielding me this time. I want to thank the gentleman from Utah (Mr. HANSEN) for bringing this legislation along with the gentleman from Oregon before us.

It is fitting and appropriate that a plaque be placed near the statue of Lincoln near the Lincoln Memorial in honor of the speech ''I Have A Dream'' by Dr. Martin Luther King, Jr. That speech was delivered on August 28, 1963, on a very hot summer day.

On that day, Martin Luther King, Jr., spoke from his soul. He spoke from his heart. He said, ''I have a dream that is deeply rooted in an American dream.'' I was there that day, 23 years old. When Martin Luther King, Jr., stood to speak, he was not just speaking for himself, he was speaking for all Americans, not just for those of us 36 years ago now, but he was speaking for ongoing generations.

So this plaque, ''I Have A Dream'' plaque, would inspire generations yet unborn, inspire young children, would help make us one Nation, one people, one family, the American family, the American community.

It is my hope that all of our colleagues would join in together and support this little piece of legislation, that it would serve as a footnote, but more than a footnote, it would serve as a page in the history of our long struggle toward creating a sense of community, the beloved community.

Mr. Speaker, I again want to thank these two wonderful men for bringing this legislation before us today.

Mrs. NORTHUP. Mr. Speaker, along with my earlier comments on the need for passage

of H.R. 2879, I submit for the RECORD the letter I received from Thomas Williams who came up with the idea for the need of a marker on the Lincoln Memorial to commemorate the ''I have a Dream'' speech of Martin Luther King on August 28, 1963.

Beyond paying respect to Dr. King, this bill offers acknowledgment that our legislative system works as planned. For only in the United States can an idea of an interested individual result in good legislation, and I am hopeful—law. I thank Mr. Williams for his contribution to his country and to the future of our nation.

NOVEMBER 30, 1998.

DEAR REPRESENTATIVE NORTHUP: In October of 1997 my wife and I visited Washington, D.C. The city, with its buildings, statues and monuments, was rich with symbolism. Despite the vastness of the space and the beauty of its design, what struck me most during the trip was a single man sitting on the steps of the Capitol. He sat there in plain view of the police with a sign indicating (if memory serves me) that he had fought in the Viet Nam war but was not now receiving veteran's benefits. The guard there indicated it wasn't true, but what struck me most was the fact that a single citizen could sit peacefully on the steps of the Capitol without being escorted away because he was unworthy of the space he selected to rest. There, literally on the threshold of our nation's most-powerful leaders, he sat. Other nations, I thought, might be embarrassed by the scene. Nevertheless, I somehow felt that I had witnessed—there on the steps—a living testament to our freedom and our greatness.

Later that day, my wife and I walked to the Lincoln Memorial where, at the steps of the memorial to one of our nation's greatest presidents, Martin Luther King delivered the ''I Have A Dream Speech''. I looked for the spot on which Martin Luther King stood when he spoke. I looked for a marker to remind me and others that—for a single moment on a hot August day—a descendent of a slave held the most prominent space in our nation and delivered words that will always stay with that space. I couldn't find a marker or the words on those steps.

Several months later at my home in Louisville, Kentucky, I attended a service at the Cathedral of the Assumption in which the Church celebrated a moment of personal revelation by Thomas Merton, the monk. Forty years earlier, when walking out of the Starks building on what was then 4th and Walnut, he realized in a profound way that we are all one. The Church celebrated the 40th anniversary of that event with a simple Mass and marker. To me, the service and the marker were both reminders that the ordinary space we sometimes occupy can become forever changed by the deeds of a person who stood there. I am confident it was no accident that the Church waited 40 years to commemorate the event.

My visit to Washington and my attendance at the Merton mass sparked a vision and a question in my mind. Wouldn't it be right to celebrate the 40th year of Martin Luther King's ''I Have a Dream'' speech with a ceremony and a marker at the footsteps of the Lincoln Memorial? The anticipation and planning of such an event might lead to collective good. In my mind's eye, I saw a day in which the ''I Have A Dream'' speech would be delivered again for those who have never heard it. I saw a day in which Martin Luther King might be remembered for the inspiration he provided to all of our citizens.

Looking even further into the future, I saw a day when I could bring my yet unborn children to that spot where Martin Luther King spoke and I could show them that marker and read them the words of his dream. I could tell him that this is still a nation where a simple Kentucky farmer could rise to the heights of President and a son of a slave could inspire future generations with the power of his words and his compassion.

My vision and these thoughts I share with you are personal—but far from novel. Perhaps something like this is already in the works and I am simply unaware. In any event, I am writing for some practical suggestions for bringing this vision to a reality.

Sincerely,

TOM WILLIAMS.

Mr. DEFAZIO. 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. 2879.

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.

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 H.R. 2879 and add any extraneous material that they so desire.

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

There was no objection.

SENSE OF HOUSE REGARDING THE TRAFFICKING OF BABY PARTS

Mr. FOSSELLA. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 350) expressing the sense of the House of Representatives with respect to private companies involved in the trafficking of baby body parts for profit.

The Clerk read as follows:

H. RES. 350

Whereas the National Institutes of Health Revitalization Act of 1993 effectively lifted the ban on federally funded research involving the transplantation of baby body parts, and such Act made it a Federal felony for any person to knowingly, for ''valuable consideration,'' purchase or sell baby body parts (with a term of imprisonment of up to 10 years and with fines of up to $250,000 in the case of an individual and $500,000 in the case of an organization);

Whereas private companies have sought to meet the demand by both public and private research facilities by providing baby body parts;

Whereas the definition of ''valuable consideration'' under the National Institutes of Health Revitalization Act of 1993 does not include reasonable payments associated with the transportation, implantation, processing, preservation, quality control, or storage of baby body parts; and

Whereas private companies appear to believe that the definition of ''valuable consideration'' allows them to circumvent Federal law and avoid felony charges with impunity while trafficking in baby body parts for profit: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the Congress should exercise oversight responsibilities and conduct hearings, and take appropriate steps if necessary, concerning private companies that are involved in the trafficking of baby body parts for profit.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York (Mr. FOSSELLA) and the gentlewoman from Colorado (Ms. DEGETTE) each will control 20 minutes.

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

GENERAL LEAVE

Mr. FOSSELLA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 350 and to insert extraneous material on the resolution.

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

There was no objection.

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

Mr. Speaker, I rise in support of H. Res. 350, a much-needed resolution which would bring greater attention to a sordid trade in the bodies of aborted babies. I salute the gentleman from Colorado (Mr. TANCREDO) for working so diligently to bring this matter to the attention of the House.

I have a copy of a brochure from a company called Opening Lines recently of West Frankfurt, Illinois, which has now moved its base of operations to an undisclosed location. This brochure boasts, ''Our goal is to offer you and your staff the highest quality, most affordable, and freshest tissue, prepared to your specifications, and deliver it in the quantities you need when you need it.''

This company was founded, according to its brochure, ''in order to provide a convenient and efficient way for researchers to receive fetal tissue without a lot of bureaucracy.''

The brochure explains that, ''We have simplified the process for procuring fetal tissue. We do not require a copy of your IRB approval or summary of your research, and you are not required to cite Opening Lines of the source of tissue when you publish your work. We believe in word-of-mouth advertising. If you like our service, you will tell your colleagues.''

Mr. Speaker, Congress has spoken forcefully on the matter of selling aborted baby parts before. There is no question that it is illegal in the United States for any person to buy or sell fetal tissue effecting interstate commerce.

Yet, the documents we have here show very clearly that, if this is true, that anyone can buy whatever part of a dead baby may be decided. According to this brochure, it is $50 for ears, $150 for lungs and hearts, $325 for a spinal column, and a pair of eyes cost $50. But the buyer is offered a 40 percent discount for a single eye. Prices are in effect through December 31, 1999.

Mr. Speaker, companies like Opening Lines and their main competitor, the

so-called Anatomic Gift Foundation, play a significant role in destroying the sanctity of innocent human life and apparently profit from this illicit activity even though it is illegal to buy and sell fetal tissue.

According to Opening Lines, ''Our daily average case volumes exceeds 1,500, and we serve clinics across the United States.''

How are they getting around the law? I think Congress and the American people deserve to know.

Finally, Mr. Speaker, I know a lot of folks in this body, a lot of Members come down and speak so eloquently and passionately when it comes to such things as cruelty to animals, and in many ways they are justified in their eloquence and their beliefs. I would just hope that those same Members come down to this floor and speak as eloquently and passionately when it comes to the destruction and cruelty to innocent human beings.

I ask my colleagues to cast their votes in support of H. Res. 350 and ask that we work together to shed more light on this industry that has been operating in the shadows of darkness.

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

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

Mr. Speaker, I am wondering if my colleague from Colorado (Mr. TANCREDO) would be available to engage in a short colloquy with me.

Mr. Speaker, I just would like to try to clarify the intent behind this resolution before I make my statement. The reason is because, as I read the resolution, it says that it is a Federal crime for any person to knowingly for valuable consideration purchase or sell, quote, ''baby body parts,'' and then it goes on.

When I read this, I went and looked at the Federal statutes. I found no Federal statute which criminalizes specifically selling ''baby body parts.''

I was wondering if the gentleman from Colorado (Mr. TANCREDO) was talking about either some insidious plot to take babies and kill them, and horribly, to sell the body parts; or if the gentleman was referring to the unlawful purchase of human organs as it would apply to minors, or, as I suspect from what the gentleman from New York (Mr. FOSSELLA) said, that the gentleman may be talking about the unlawful sale of organs or fetal tissues is prohibited by statute.

□ 1115

Mr. TANCREDO. Mr. Speaker, will the gentlewoman yield?

Ms. DEGETTE. I yield to the gentleman from Colorado.

Mr. TANCREDO. The answer to the gentlewoman's question is, it is the latter.

Ms. DEGETTE. So it is the intention to talk about the unlawful sale of organs or fetal tissue.

Mr. TANCREDO. That is correct.

Ms. DEGETTE. Reclaiming my time, Mr. Speaker, I thank the gentleman for that clarification.

As I stated in the colloquy, any way we interpret this resolution, the unlawful sale of either children, of children's organs, or of fetal tissue would be illegal under Federal statutes. Murdering children would be illegal under 18 USC Section 1958(a) and, in fact, it would be a capital offense under Federal law. Unlawful purchase of human organs is also unlawful under 42 USC Section 274(e)(a), and, as noted by the gentleman from New York, it is also illegal to profit from the sale of organs or fetal tissues under 42 USC Section 289g-2(a). Those who partake in this illegal activity are subject to fines, 10 years in prison or both. And, obviously, it is a Federal crime to murder anybody, including babies or small children.

The reason I raise this issue in this way is because what we are discussing here today is a serious issue of medical ethics, and I think that it is incumbent upon all of us in Congress to make sure that proper protocols are being followed with respect to research and that no illegal activity is occurring. However, the use of inflammatory and imprecise language in resolutions such as this one does nothing to ensure that these laws are being enforced or that proper controls are in place. In fact, we do not even need to consider a resolution in Congress to request an oversight hearing.

If, indeed, illegal acts are occurring, then the oversight and investigation subcommittee of the Committee on Commerce, of which I am a member and I believe the gentleman from New York is also a member, should investigate these acts and any violation of Federal law should be prosecuted to the fullest extent of the law.

When fetal research was legalized in 1993, in the NIH Revitalization Act, a portion of that legislation established the conditions under which federally-funded fetal tissue research can take place. This law provides that it should be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human fetal tissue for valuable consideration. Specifically, it prohibits the purchase of human fetal tissue. It is interesting to note that a GAO report issued in 1997 determined that these requirements were in fact being met and no further complaints have been issued or detected, according to the NIH.

We called the company, Opening Lines, which the gentleman referred to in his opening statement, and we learned that they have closed their offices and could find no other evidence of them. However, as I noted a moment ago, if protocols are not being followed, and if, in fact, fetal tissue is being sold, then Congress should hold hearings, investigate this matter, and the perpetrators should be prosecuted to the fullest extent of the law.

But in establishing protocols and in thwarting illegal acts, we need to be mindful of the benefits that legitimate fetal tissue research has brought. Fetal tissue research has already resulted in significant advances in the treatment of Parkinson's Disease and even in more potential advances for Alzheimer's, diabetes, and many other serious medical conditions. There is a wide range of disorders and diseases that may benefit from fetal tissue transplantation research, including Alzheimer's disease, Huntington's disease, spinal cord injuries, leukemia, Down's syndrome, Tay-Sachs disease, hemophilia, epilepsy, cancer, and perhaps even brain damage caused by an accident or a stroke.

Scientists estimate that fetal tissue transplants could help approximately 1 million Parkinson's disease patients, 2.5 to 3 million people affected with Alzheimer's, 25,000 people suffering from Huntington's disease, 600,000 Type I diabetics, 400,000 stroke victims, and several hundred thousand persons who have suffered a spinal cord injury.

As the co-chair of the Congressional Diabetes Caucus and, more importantly, as the mother of a 5-year-old child who could benefit significantly from appropriate fetal tissue research, I want to ensure, and I know my colleagues want to ensure, that this critical research continues in an ethical manner so that we may find a cure for diabetes, Parkinson's disease, Alzheimer's disease, and these many, many other diseases in the near future.

Again, if there is illegal activity going on, we should fully investigate it. But let us not cloud this issue with hyperbole or inaccurate language. Let us make sure that all of the protocols are being followed and illegal activity is not going on.

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

Mr. FOSSELLA. Mr. Speaker, I yield myself 15 seconds just to respond that if anybody wants to use inflammatory language, that is not our intent, but this, again, is the price list from Opening Lines: A brain is $999, a kidney is $125, eyes at 8 weeks are $50, 40 percent discount for a single eye. That is the issue before us, Mr. Speaker.

Mr. Speaker, I yield 4½ minutes to the gentleman from Colorado (Mr. TANCREDO).

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

Mr. Speaker, if I were to tell my colleagues that human bodies were being dissected and that the parts were being methodically catalogued, preserved and sold for profit, they might well recoil at such a picture. They might think I was referring to the grotesque deeds carried out in Communist China, where buyers can place orders for specific organs from bodies of certain blood types. Prisoners matching the specifications are then slaughtered and their organs harvested and sold. Or perhaps, Mr. Speaker, my colleagues might think I was detailing the actions of Nazis, when they found the market in human hair, skin, and bones to be lucrative, so they turned the concentration camps into profit centers.

It is, indeed, a tragic commentary on our times, Mr. Speaker, that I must tell my colleagues that it is not Communist China nor is it Nazi Germany to which I refer, it is contemporary America. The specific sites are not prisons or concentration camps, they are abortion clinics. Unfortunately, entrepreneurs appear to have found a profitable niche within the abortion industry and have begun to traffic in the body parts of aborted babies.

Now, this practice was outlawed by the passage of the Health Revitalization Act, to which my colleague has referred. However, some unscrupulous individuals have found that by simply calling a charge a fee-for-service, that they could possibly avoid persecution and prosecution and turn a tidy profit on the sale of body parts.

Mr. Speaker, on this poster we can see that the price list advertised by Opening Lines, one of the companies doing business in this area, and by the way it is true that one of their outlets has gone to ground since this all came to light, but there are other companies out there doing the same thing, clearly and unabashedly this sets out the specific price for each part. It is not I who stand here talking about baby body parts and offending the sensibilities of my colleagues; it is, of course, the organizations that are involved with selling them. What else would we call the liver, 8 weeks; the spleen, 8 weeks; the pancreas, 8 weeks; intestines; mesentery; kidney without adrenal or kidney with adrenal? You can get either one. What would my colleagues call that if it is not a baby body parts list?

This issue is not about fetal research. I knew that was going to be the issue my colleague and others would like to sort of cloud this thing with, fetal tissue research, the many benefits that may accrue from that. Anyone can stand up and say this resolution is about increasing the possibility for nuclear war. Anyone can say anything they want. The fact is, it is very clear it is a resolution simply calling for an investigation. If there are no problems, if in fact everybody is operating within the law, as my colleague suggests and hopes, then there is nothing to fear from investigation, and that is all this asks for. It is not legislation correcting or changing anything, but there is certainly evidence that something out there is wrong. Something is amiss. It is not going according to the way people who wrote the 1993 law wanted it to go.

This organization was even more exuberant in their advertising when they said, ''Our goal is to offer you and your staff the highest quality, most affordable, freshest tissue prepared to your specifications, delivered in the quantities you need and when you need it.'' Now, this is not my stuff, this is not something I am making up, this is from their brochure.

It is important at this point to cite the specific language of the Health Revitalization Act which says it is a Federal felony for any person to knowingly, for valuable consideration, purchase or sell human body parts, or fetal tissue, however one wants to put it. When I looked at this, it was body parts.

Mr. Speaker, how much more clearly could we have said it when we wrote the law? We evidently need to do more to get the point across that the trafficking in human body parts is disgusting, dangerous, and completely unacceptable in a society which presumes to call itself civilized. I, therefore, have introduced this resolution, which calls upon the Congress to hold hearings to determine the extent to which this practice is going on and, if necessary, if necessary and only if necessary, to take appropriate steps to end it.

Now, the last thing is this GAO report to which my colleague referred. The GAO study actually did come back and say it was not happening; it was not happening in three places, the Colorado Health Sciences Center, Mount Sinai, and the University of South Florida. And they were only looking at one specific aspect of this, they were not looking at private companies, they were not looking at pharmaceutical companies. So it is disingenuous, at least, to say this study sort of exonerates the industry. It was a very narrow study and in those three places it was not happening. In a lot of other places it is.

Ms. DEGETTE. Mr. Speaker, I yield 4 minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I rise in opposition to H. Res. 350. When I heard from my staff last night that a resolution addressing illegal sale of fetal tissue would be offered on the floor today, my immediate reaction was if any illegality was taking place, it ought to be investigated immediately. Then I read the text of H.R. 350, with its use of terms like ''trafficking'' and ''baby body parts'', and I tried to call the company accused of wrongdoing, using the phone number listed in a Dear Colleague, and the number was not in service.

My colleagues, these are serious allegations and we ought to react to them responsibly. If there are legitimate complaints or evidence of illegality, Congress has the power to act. But instead of taking time on this floor, we could be working in committee conducting oversight of the National Institutes of Health, which is charged with protecting the integrity of federally funded research.

As the gentlewoman from Colorado (Ms. DEGETTE), said, in 1997, as required by statute, the General Accounting Office investigated compliance with the detailed Federal regulations governing this research and the GAO found no evidence of wrongdoing or abuse. I would like to repeat that. The GAO found no evidence of wrongdoing or abuse.

And yesterday, the NIH confirmed the GAO conclusion, again stating that no complaints regarding fetal tissue research have been investigated by the National Institutes of Health's Office for Protection from Research Risks, and no compliance cases or institutional reports have been filed with the NIH since the GAO reported to Congress in March 1997. And the National Institutes of Health, my colleagues, has no record of any Member of Congress to date requesting a review or presenting any evidence of wrongdoing, despite the fact that the NIH is the agency charged with oversight of federally funded research. No Member of Congress has called the NIH or requested in writing any investigation.

Research involving fetal tissue is an integral part of the pioneering field of stem cell research which may offer millions of Americans, as the gentlewoman from Colorado (Ms. DEGETTE) has said, suffering with diseases the opportunity to be cured. We should do everything we can to assure that this research proceeds in an ethical and cautious manner.

☐ 1130

Allegations of wrongdoing, if substantiated, should be investigated, not, my colleagues, brought to the floor of the House to inflame. This resolution is not needed in order for oversight hearings to be held.

So why are we debating this on the House floor? Let us put aside the inflammatory words and work together with the NIH to get the facts. That is why I urge my colleagues to reject H. Res. 350.

Mr. FOSSELLA. Mr. Speaker, I yield 4 minutes to the gentleman from Oklahoma (Mr. COBURN).

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

Mr. Speaker, there is a lot of truth to what the gentlewoman from New York said. However, there is an absence of appropriate timing with that. There is no question we are going to have an oversight hearing on this. There is no question we are going to do it. There is no question that they are violating the law and the intent and purposes of the law. We are going to do that.

But this needs to be inflamed, I say to the gentlewoman from New York (Mrs. LOWEY), because this is exactly the slippery slope we said we would be going down.

Let me tell my colleagues what this process is creating. If I am in there to rent some space from their abortion clinic and I tell them that can I sell a brain for a thousand dollars, do my colleagues know what I am going to do if I am an abortionist? I am going to do an abortion now that is most important in saving the brain rather than in caring for that woman who is having a pregnancy terminated. Because money then becomes the driving object in my abortion, not in the care of the woman who has made a difficult decision and is giving up a life.

So now what we have had is we violate this law and the intent of it, although technically they may not be, but in fact their intent is to, we are inducing through the profit motive abortionists to put the life of their patient at risk for monetary gain, a fetal brain for a thousand bucks.

How abhorrent can we be? Why should we not be inflamed? Why should we not be agitated? Why should we not be angry, in fact, when this process is going on exactly in contraindication to what we said in the law? We should inflame this. Everyone in America should know that the value of life has just gotten less, not the value of the fetus, the value of the very woman undergoing abortion. Because now her life is going to be put at risk because somebody is going to try to capture a brain intact regardless if that is the best and safest indication for that woman.

So we do need to send the letters, and we are going to, from the Subcommittee on Health, I assure my colleagues. We are going to have an oversight. And we should as a body say, this is not right. This should stop. There are all sorts of unintended consequences occurring because this procedure is ongoing.

The reason the phone is disconnected is just like the phones were disconnected a month ago at another one of them, because when everybody finds out, they shut down and move somewhere else simply because they know it is not right, not right ethically, not right morally, and not right legally. So I am inflamed about it. I am upset about it. Because the purpose of the law, what their intent is, is to go completely around that.

I assure my colleagues that the Subcommittee on Health and the Oversight and Investigation Committee of the Subcommittee on Health of the Committee on Commerce is going to look at every aspect of this. And we already know what the answers are. We have had good undercover investigative reporting that has shown us the answers. But we are going to allow the people to give us the opportunity to do that.

I hope, in our heart of hearts, that as we protect abortion in this country, the first thing we do is protect the women undergoing the abortion.

Mrs. LOWEY. Mr. Speaker, will the gentleman yield?

Mr. COBURN. I yield to the gentlewoman from New York.

Mrs. LOWEY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would just clarify my position since the gentleman from Oklahoma (Mr. COBURN) was directing his comments to me. I certainly respect his views on any issue. But my position was that I would respectfully suggest that the order in this House of Representatives is to have a hearing, to do an investigation, and not come to conclusions with the purpose of inflaming on the floor. I am delighted that they are going to have an investigation.

Mr. COBURN. Mr. Speaker, reclaiming my time, the purpose of the resolution is to raise the awareness of how foul, how dirty, how nasty, how abhorrent this is.

Ms. DEGETTE. Mr. Speaker, I am pleased to yield 2½ minutes to my colleague, the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I thank the gentlewoman for yielding me the time.

Mr. Speaker, I rise to oppose this resolution. The proponents of this resolution are attempting to corrupt medical research with the politics of abortion. They are attempting to stall proper research to save lives to gain political advantage. I am not surprised, but I am disappointed.

The resolution is totally misleading, and that may in fact be its real purpose. Sale of body parts for profit, the resolution talks about. No one is going out selling body parts, arms, or legs for any purpose.

Researchers do use stem cells and tissue samples from the earlier stages of fetal development to promote research for the treatment of Alzheimer's disease and Parkinson's disease and diabetes and other serious medical conditions. This is potentially life-saving research that can save thousands and thousands of lives. It is intended to alleviate pain and suffering and to save lives.

But we do in the talk about that, we talk about selling body parts, which does not happen. We talk about having abortions to generate body parts, which does not happen. And again, I agree with the gentlewoman from New York (Mrs. LOWEY). This is backwards.

If the gentleman from Oklahoma (Mr. COBURN) thinks that some foul stuff, as he put it, is going on, that some foul deeds are being committed, have an oversight hearing, look into it, find out the facts first. Do not declare the facts first and then investigate. We do that too often in this House these days, and this is a prime example of it.

I do not think those foul things are happening. I think it is a concoction; I think it is propaganda to inflame debate to stop medical research into lifesaving techniques.

But if they are happening, let us find out; let us have a hearing. They will have a hearing. The gentleman says so. Fine. So why this resolution? This resolution is total demagoguery and ought to be rejected for the demagoguery it is. Let us have the hearings and find out the facts and then see what we ought to do, if anything.

Facts first. Action later. Demagoguery not at all.

Mr. FOSSELLA. Mr. Speaker, I yield 4 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, I rise today to speak in support of this resolution which says very simply that the House should hold hearings on the commercial trafficking in baby body parts.

Here is the issue in a nutshell. Based on reliable reports, abortion clinics are selling parts of babies, and the older the better, to middlemen. Those middlemen, in turn, sell them to researchers. This means more money for the abortion clinic. Instead of the problem of disposing of dead bodies, now abortion clinics have a lucrative means of getting rid of the ''unintended babies.'' This means money for the middlemen.

Just look at this price list that is duplicated, blown up from an article obtained from a national business which traffics in unborn baby body parts. Up here we see a liver, $150. But they can get it for $125 if it is from a younger baby, or they can get a 30 percent discount if it is ''significantly fragmented.'' A spleen is $75. Pancreas, $100. This is their document. A thymus, $100.

Look at this. A brain, $999. Notice they even use marketing techniques in this gruesome big business, selling it for one dollar less than a thousand dollars to make it, I guess, a more attractive purchase. And again, if it is fragmented, and what a terrible way to describe a baby's injured brain from an abortion, they can get a 30 percent discount. Almost like, step right up, ladies and gentlemen, do you want a baby's ear? Seventy-five dollars, $50 if a baby is less than 8 weeks old. How about eyes? A pair of eyes $75; $40 for one eye. Skin, a baby in a second trimester, $100. Spinal cord, $325.

Mr. Speaker, I wish this gruesome price list were a cruel Halloween hoax, but it is not. It is the price list for human body parts from aborted babies.

It is almost like the bureaucratization of the Nazi's final solution hammered out in conferences and committed to legal documents, except now it is in the form of capitalistic price lists organized for commerce, sanitized for the grim reality which it is.

Mr. Speaker, I would like to draw attention to the job of one young woman. Let us call her Kelly. Kelly's job at the abortion clinic was one of retrieving body parts from dead bodies for abortion and shipping them for profit to researchers who requested them. Here is her testimony. Kelly said: ''We had a contract with an abortion clinic that would allow us to go there on certain days. We would have a generated list of tissue that organizations were looking for. Then we would examine the patient charts.

''We only wanted the most perfect specimens that we could give. We were looking for eyes, livers, brains, thymuses, cardiac blood, cord, blood from liver, even blood from the limbs.''

Kelly quit her job one day when an abortion doctor came in and brought in two babies, two 5½-month-old twins still moving. She could not take it anymore.

It is time the Congress begin oversight hearings on this death-dealing business. We need to begin tracing this money trail. The bill before us today

does nothing more than call for hearings. It does not call for the elimination of trafficking. It does not require women to sign a consent form before their babies are sold for parts. It does not even prohibit Planned Parenthood or commercial middlemen from profiting. All it does is call for hearings. Surely, no one could reasonably oppose a hearing.

Let me anticipate one line of protest. Some will say that medical progress requires that we turn tragedy into a blessing for the living. Well, they are right. We must do all we reasonably can to erase human suffering. But the key is responsibility. We have a responsibility to the sick, the disabled, the children, the elderly.

Who among us does not have a loved one who suffers from some disease or ailment? But do not be fooled between false choices between medical research and no medical research. We have other options other than buying and selling dead children's body parts.

I urge Members to support this resolution.

And that's the issue we focus on today—not research—but the buying and selling of baby body parts for profit, for financial remuneration.

We can, we must, and we will do more to ease human suffering. But not at the ghastly price paid in dissecting babies, pricing their body parts, and distributing marketing lists.

The Nazis killed their unwanted children under the guise of the ''Realm's Committee for Scientific Approach to Severe Illness Due to Heredity and Constitution.'' Transportation of the patients to killing centers was carried out by ''The Charitable Transport Company for the Sick.''

We should not join the Nazi's rationalization of unbounded research on the powerless to build a master race. No, we must not.

Mr. Speaker, I urge my colleagues to support this common sense non-binding legislation to call for congressional hearings on this issue.

Ms. DEGETTE. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, certainly no one in this chamber would ever advocate the improper sale of ''baby body parts'' or of ''fetal tissue.'' This is a very sensitive issue of medical ethics which is important for us to ensure is always being adhered to in the strictest way.

This issue, if there is an issue, even though no one has documented it, if there is an issue of improper sale of fetal tissue or of children or anything of that nature, the sponsor of the bill, the floor manager, the chairman of the Committee on Commerce, any Member of this House could have requested NIH to investigate those allegations pursuant to the statute. That has never been done to date.

They could have brought this issue up during the NIH authorization hearings, which the Committee on Commerce has jurisdiction over. That has not been done. They could have requested an oversight investigations hearing into these very deeply troubling allegations. That has not been done.

After looking at what has not been done, it becomes clear that this practice of bringing this issue to the House floor to demagogue it is improper. We should go through the committee process and decide whether, in fact, these practices are occurring. And if they are, we should stop them immediately.

No one would favor the sale improperly of fetal tissue or any other kind of tissue. But let us call this what it is. If there is an issue, let us have a hearing, let us investigate it, let us prosecute anybody who is breaking the law.

That is what we should be doing, not standing here in November as the session is winding down and raising it on the floor for the first time.

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

□ 1145

Mr. FOSSELLA. Mr. Speaker, I yield myself 15 seconds. Again, as I stated at the outset, there are so many Members who rightfully and legitimately in their mind come to the floor to speak so passionately about saving the dolphins and saving the tigers and saving the whales. That may all be legitimate. I would just hope that they would feel the same way when it comes to the saving and sanctity of innocent human beings.

Mr. Speaker, I yield the balance of my time to the gentleman from New Jersey (Mr. SMITH).

The SPEAKER pro tempore (Mr. HOBSON). The gentleman from New Jersey is recognized for 3¾ minutes.

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

Mr. SMITH of New Jersey. Mr. Speaker, I rise in very strong support of H. Res. 350 and urge swift and extensive oversight into the question of trafficking in the bodies of unborn babies killed by abortion. Mr. Speaker, the House has not addressed this issue since 1993, when the NIH Revitalization Act was passed by this body. At that time, many of us were deeply concerned, and expressed it on this floor, that research using the shattered bodies of aborted babies could quickly lead to a greater number of abortions, particularly if the demand for their body parts grew among researchers. Those concerns appear to have been well founded.

I want to thank the gentleman from Colorado (Mr. TANCREDO) for offering this resolution and, as he pointed out earlier, it was a pro-life organization in Texas that compiled numerous documents about the horrific business of trafficking in baby body parts. The companies involved provide price lists for the individual parts. Let me read just some of those that are listed:

Liver, $150, but a 30 percent discount if significantly fragmented. Pancreas, under 8 weeks, $100. Ears, under 8 weeks, $75. Brain, under 8 weeks, $999, 30 percent discount if significantly fragmented. Intact trunk, with or without limbs, $500. Spinal column, $150. Skin, $100.

Mr. Speaker, this is almost too grotesque to imagine. Yet this is a real business and these are real babies, innocent children who have been deprived of their lives.

It is routine, Mr. Speaker, for pregnant women who are planning to abort their babies to be told that their children are nothing more than collections of cells or blobs of tissue. Yet these lists clearly give lie to that myth. Babies younger than 8 weeks have, as they point out on their price list, identifiable brains, livers, spleens, ears, and eyes, and they, as well as older babies, are being taken apart piece by piece, limb by limb, even skinned. Worst of all, there are profiteers waiting in the wings to make money from this tragedy by collecting and selling the pieces.

Among the questions that Congress must investigate, Mr. Speaker, is whether these private businesses are operating inside or outside the scope even of our current infirm law, and whether Federal law has the gaping loopholes that we suggested back in 1993 which allow these companies to claim significant payments for body parts as, quote, reasonable compensation for obtaining them.

We may also have to look at the clinics' financial interest, particularly where federally funded research is involved. When taxpayer funding of research using baby body parts was being defended 6 or more years ago, one thing that was said repeatedly was that these babies are already dead. The truth is, however, that they are not dead when a woman is asked to donate, and it may not even be true that the woman has decided to abort when she is presented with the prospect of handing over her baby's body parts for research purposes. And as we pointed out then, that may, among other factors, help tip the scale.

Mr. Speaker, many women are ambivalent about abortion, and the studies show that many are undecided even as they walk into the clinic doors. They hope to get objective counseling about their options, but abortion clinic employees, as we have known, are far from objective. Currently there is nothing in Federal law or regulations, and almost certainly nothing in the private sector, to prevent a so-called counselor from telling a woman who is undecided about abortion that if she decides to abort, some good can result if she donates her dead baby to research.

Mr. Speaker, as the gentleman from Colorado has pointed out to all of us, and again I want to salute him for bringing this to our attention, a woman who used to work for these middlemen has come forward to talk about their business arrangements with abortion clinics.

She has recounted that the abortion clinic would give her information on the women in the waiting room so that she could pick out the best candidates to fill their requests for organs and tissues, based on the women's medical history and stage or pregnancy. How far-

fetched is it to imagine that these women in particular were approached to get permission to dissect their babies bodies? The so-called safeguards in current law for federally funded research are inadequate in this area and need to be re-examined.

Mr. Speaker, the prospect of economic gain causes can poison even those practices established with the most benevolent intentions. Just yesterday there was a news story about concerns that have been raised over trafficking in human organs internationally for profit. A university professor who founded a group, Organs Watch, to investigate this, said ''In the organs trade business, abuses creep in before you know it.'' The same abuses should be expected in the baby parts business.

I would be astounded if any Member of this body objected to this resolution. If the laws we have, and the enforcement of them, are so great, then hearings will bring that out. But if they are inadequate or are being ignored, then Congress should be made aware of that as well.

Mr. Speaker, the barest minimum that we can do is to have a full scale investigation into this and go wherever the leads may take us to try to stop this heinous practice.

I urge my colleagues to join me in voting ''yes'' on this important resolution. Let's let some light shine on this grisly business.

Mr. WAXMAN. Mr. Speaker, it's hard to escape the conclusion that this resolution—by its very name—is designed to attack and cast doubt on fetal tissue research.

First, let's be clear. The law that authorizes fetal tissue research, The NIH Revitalization Act of 1993, which I helped author, contains strong protections against the abuses alleged in this resolution. While we should be concerned if these protections are violated, this inflammatory resolution clearly means to whip up opposition to all fetal tissue research by substituting sound bites for facts. The facts are that fetal tissue research is subject to Federal, State and even local regulation. It is subject to informed consent. It is subject to audit by the Secretary of Health and Human Services. Violations of Federal protections are subject to criminal penalties.

Congress and the American public have already decided that fetal tissue research is both legal and ethical. It is crucial to women's health and reproductive research. It is enormously promising for Parkinson's disease, multiple sclerosis, Alzheimer's disease, Tay-Sachs disease and juvenile diabetes. It could help cure victims of stroke and brain cancer. We should always do appropriate oversight. But a resolution that talks about ''baby body parts'' is not the way to do it. This resolution uses rhetoric to conceal its attack on the hopes of Americans with Alzheimer's and MS. It resorts to linguistic tricks to mask its impact on American mothers seeking cures to genetic birth defects—mothers who could have healthier babies as a result of fetal tissue research.

I am very disappointed in the House. In the waning days of this Congress, we should be enacting the Patients Bill of Rights. We should be working on the Medicare drug benefit. But instead, once again, the House Republican leadership is kow-towing to its pro-life right-wing with misleading and sensationalist rhetoric.

I urge my colleagues to oppose the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. FOSSELLA) that the House suspend the rules and agree to the resolution, House Resolution 350.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

CONCURRING IN SENATE AMENDMENT TO H.R. 2280, VETERANS BENEFITS IMPROVEMENT ACT OF 1999, WITH AMENDMENTS

Mr. STUMP. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 368) providing for the concurrence by the House with amendments in the amendment of the Senate to H.R. 2280.

The Clerk read as follows:

H. RES. 368

Resolved, That, upon the adoption of this resolution, the House shall be considered to have taken from the Speaker's table the bill H.R. 2280, with the Senate amendment thereto, and to have concurred in the Senate amendment with the following amendments:

(1) Amend the title so as to read: ''An Act to amend title 38, United States Code, to provide a cost-of-living adjustment in the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.''.

(2) In lieu of the matter proposed to be inserted by the amendment of the Senate, insert the following:

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Veterans' Compensation Cost-of-Living Adjustment Act of 1999''.

(b) REFERENCES TO TITLE 38, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. DISABILITY COMPENSATION.

(a) INCREASE IN RATES.—Section 1114 is amended—

(1) by striking ''$95'' in subsection (a) and inserting ''$98'';

(2) by striking ''$182'' in subsection (b) and inserting ''$188'';

(3) by striking ''$279'' in subsection (c) and inserting ''$288'';

(4) by striking ''$399'' in subsection (d) and inserting ''$413'';

(5) by striking ''$569'' in subsection (e) and inserting ''$589'';

(6) by striking ''$717'' in subsection (f) and inserting ''$743'';

(7) by striking ''$905'' in subsection (g) and inserting ''$937'';

(8) by striking ''$1,049'' in subsection (h) and inserting ''$1,087'';

(9) by striking ''$1,181'' in subsection (i) and inserting ''$1,224'';

(10) by striking ''$1,964'' in subsection (j) and inserting ''$2,036'';

(11) in subsection (k)—

(A) by striking ''$75'' both places it appears and inserting ''$76''; and

(B) by striking ''$2,443'' and ''$3,426'' and inserting ''$2,533'' and ''$3,553'', respectively;

(12) by striking ''$2,443'' in subsection (l) and inserting ''$2,533'';

(13) by striking ''$2,694'' in subsection (m) and inserting ''$2,794'';

(14) by striking ''$3,066'' in subsection (n) and inserting ''$3,179'';

(15) by striking ''$3,426'' each place it appears in subsections (o) and (p) and inserting ''$3,553'';

(16) by striking ''$1,471'' and ''$2,190'' in subsection (r) and inserting ''$1,525'' and ''$2,271'', respectively; and

(17) by striking ''$2,199'' in subsection (s) and inserting ''$2,280''.

(b) SPECIAL RULE.—The Secretary of Veterans Affairs may authorize administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 3. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 1115(1) is amended—

(1) by striking ''$114'' in clause (A) and inserting ''$117'';

(2) by striking ''$195'' and ''$60'' in clause (B) and inserting ''$201'' and ''$61'', respectively;

(3) by striking ''$78'' and ''$60'' in clause (C) and inserting ''$80'' and ''$61'', respectively;

(4) by striking ''$92'' in clause (D) and inserting ''$95'';

(5) by striking ''$215'' in clause (E) and inserting ''$222''; and

(6) by striking ''$180'' in clause (F) and inserting ''$186''.

SEC. 4. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 1162 is amended by striking ''$528'' and inserting ''$546''.

SEC. 5. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

(a) NEW LAW RATES.—Section 1311(a) is amended—

(1) by striking ''$850'' in paragraph (1) and inserting ''$881''; and

(2) by striking ''$185'' in paragraph (2) and inserting ''$191''.

(b) OLD LAW RATES.—The table in section 1311(a)(3) is amended to read as follows:

''Pay grade	rate	Monthly
E–1		$881
E–2		881
E–3		881
E–4		881
E–5		881
E–6		881
E–7		911
E–8		962
E–9		[1]1,003
W–1		930
W–2		968
W–3		997
W–4		1,054
O–1		930
O–2		962
O–3		1,028
O–4		1,087
O–5		1,198
O–6		1,349
O–7		1,458
O–8		1,598
O–9		1,712

O–10 ..... [2]71,878

''[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,082.

''[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,013.''.

(c) ADDITIONAL DIC FOR CHILDREN.—Section 1311(b) is amended by striking ''$215'' and inserting ''$222''.

(d) AID AND ATTENDANCE ALLOWANCE.—Section 1311(c) is amended by striking ''$215'' and inserting ''$222''.

(e) HOUSEBOUND RATE.—Section 1311(d) is amended by striking ''$104'' and inserting ''$107''.

SEC. 6. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 1313(a) is amended—

(1) by striking ''$361'' in paragraph (1) and inserting ''$373'';

(2) by striking ''$520'' in paragraph (2) and inserting ''$538'';

(3) by striking ''$675'' in paragraph (3) and inserting ''$699''; and

(4) by striking ''$675'' and ''$132'' in paragraph (4) and inserting ''$699'' and ''$136'', respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 1314 is amended—

(1) by striking ''$215'' in subsection (a) and inserting ''$222'';

(2) by striking ''$361'' in subsection (b) and inserting ''$373''; and

(3) by striking ''$182'' in subsection (c) and inserting ''$188''.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall take effect on December 1, 1999.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. STUMP) and the gentleman from Illinois (Mr. EVANS) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. STUMP).

GENERAL LEAVE

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

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

There was no objection.

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

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

Mr. STUMP. Mr. Speaker, this is a clean bill providing a cost-of-living adjustment to disabled veterans and surviving spouses. The other provisions in the House-passed bill are part of an ongoing conference between the House and the Senate and we hope to have a report on that by tomorrow.

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

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

Mr. Speaker, I salute the gentleman from Arizona (Mr. STUMP), the chairman of the committee, for his efforts to ensure a timely and accurate cost-of-living adjustment of 2.4 percent which will be provided to our Nation's service-connected disabled veterans and their dependents and survivors who are in receipt of compensation and DIC benefits. This increase in benefits will be reflected in payments beginning January, 2000. Mr. Speaker, this measure deserves the support of every Member of the House. I urge my colleagues to support the bill.

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

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

I want to thank the ranking member of the Committee on Veterans' Affairs for all his work on this provision as well as the gentleman from New York (Mr. QUINN), the chairman of the subcommittee, and the gentleman from California (Mr. FILNER), the ranking member, and urge all Members to support this COLA, cost-of-living increase, for our veterans.

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

Mr. FOLEY. Mr. Speaker, I thank the gentleman from Arizona for his hard work on this issue and obviously for recognition of all veterans. We are getting ready certainly to celebrate Veterans Day this year. I think it is incumbent upon us when we are considering the needs of the United States of America, we prioritize those that have fought valiantly for the freedoms that we all enjoy.

It is one of the unique things, having come to Congress and being able to speak on the floor and advocate for constituents from the 16th District, to realize many of those fundamental opportunities have been given to us because of the fight the veterans made in previous conflicts. I think it is incumbent especially as well to recognize that years and years ago I remember the veterans were told that they would have to wait for their cost-of-living, we have to make budgetary matters first and we have got to balance the books and do all these other things.

I think the gentleman from Arizona prioritizes the fact that veterans should not be treated any differently than any other citizen, that if there are cost-of-living benefits going to employees of the Federal Government, to Social Security recipients, that they should also be included for those disabled, those veterans and other groups.

I want to strongly urge obviously my colleagues' consideration of this measure but also once again to underscore the fact that very few of us would be able to speak freely in this Chamber had it not been for the valiant effort of men and women who have sacrificed, men and women who have gone to theaters around the globe to protect freedom here and abroad.

Mr. STUMP. Mr. Speaker, I thank the gentleman for his remarks.

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 Arizona (Mr. STUMP) that the House suspend the rules and agree to the resolution, House Resolution 368.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

REAUTHORIZING THE PRINTING OF CERTAIN PUBLICATIONS

Mr. MICA. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 221) authorizing printing of the brochures entitled ''How Our Laws Are Made'' and ''Our American Government'', the pocket version of the United States Constitution, and the document-sized, annotated version of the United States Constitution.

The Clerk read as follows:

H. CON. RES. 221

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. PRINTING OF DOCUMENTS.

(a) IN GENERAL.—Each of the documents referred to in section 2 shall be printed as a House document, in a style and manner determined by the Joint Committee on Printing.

(b) ADDITIONAL COPIES FOR HOUSE AND SENATE.—There shall be printed for the use of the House of Representatives and the Senate an aggregate number of copies of the documents printed under subsection (a) not to exceed the lesser of—

(1) 2,200,000; or

(2) the maximum number of copies for which the aggregate printing cost does not exceed an amount established by the Joint Committee on Printing.

SEC. 2. DOCUMENTS DESCRIBED.

The documents referred to in this section are as follows:

(1) The 1999 revised edition of the brochure entitled ''How Our Laws Are Made''.

(2) The 1999 revised edition of the brochure entitled ''Our American Government''.

(3) The 20th edition of the pocket version of the United States Constitution.

(4) The 1999 edition of the document-sized, annotated version of the United States Constitution.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. MICA) and the gentleman from Maryland (Mr. HOYER) each will control 20 minutes.

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

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

Mr. Speaker, today I come before the House to present this House Concurrent Resolution 221, which authorizes the printing of brochures entitled ''How Our Laws Are Made'' and ''Our American Government,'' the pocket version of the United States Constitution, and the document-sized annotated version of the United States Constitution.

Very often when I come to the floor, I always like to cite what I consider the most important document that rules the governance of our country and really sets forth the pattern of organization for the Congress. Our Constitution details those responsibilities under that great document, and it is important that our Committee on House Administration as one of its responsibilities in administering the House of Representatives makes certain that these publications be made available.

Each time we have young people visit the United States Capitol, I try to make pocket editions available to them so that they have a better understanding of how our government operates, what their responsibilities are under that great document as a citizen, and also how our government works. Most young people today do not have an awareness of the Constitution and basically how our government functions. That is unfortunate. Sometimes it is the failure of education. Not only do our schools and parents and communities have a responsibility but we as a Congress have that responsibility. And also it is important that the Committee on House Administration, charged with running the House of Representatives, insures that these important documents are published.

The last time two of these documents were printed was during the 102nd Congress. The other two were printed during the 105th Congress. The pamphlet-sized publication of the Constitution has a revision to the foreword by the gentleman from Illinois (Mr. HYDE), our distinguished chairman of the Committee on the Judiciary. The Parliamentarian has also provided revisions to ''How Our Laws Are Made,'' and the Congressional Research Service has provided revision to the document ''Our American Government.''

I would also notify Members of the House, Mr. Speaker, that each Member and Senator will receive 1,000 copies of each of these publications and an opportunity to acquire additional copies. They will be made available at an additional cost to the Members, and can be distributed to their constituents.

These are important documents. It is an important responsibility of the House of Representatives to make certain again that our young people and our citizens have the basic tools and documents of government available to them, somewhat of a mundane responsibility but an important one that we are taking that up. I am pleased to take up this responsibility today on behalf of the gentleman from California (Mr. THOMAS), who chairs the Committee on House Administration.

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

□ 1200

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

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

Mr. HOYER. Mr. Speaker, I rise in support of this resolution which, as the gentleman from Florida has so aptly pointed out, provides for authority to reprint four documents of particular interest. Those of us who have been around the Congress for most of our adult lives, either as students working here, as interns, or as Members and anything in between, know that although this seems like a mundane responsibility, authorizing the reprinting of four documents and the provision of copies to Members and to the public is a profound action.

It is profound because these documents are so profound. These documents have had a tremendous impact on not only the citizens of the United States, but, I would suggest, a great impact on all the world. I remember, as I am sure the gentleman from Florida remembers, when Vaclav Havel, the President of the Czech Republic, stood at the rostrum in front of the Speaker, and spoke about the emergence of Czechoslovakia from behind the Iron Curtain into freedom, both politically and economically, and democratically. He observed that two of the documents, the Declaration of Independence and the Constitution, impelled the movement in Czechoslovakia from behind the Iron Curtain. Havel spoke dramatically about human rights, political rights, civil rights, and economic rights.

It is critically important that every American student, every American adult be familiar with the source documents of our Nation which articulate our principles and outline how we accomplish democracy, how we debate and resolve differences of opinion, how we, as minority leader often observes, substitute debate on this floor for bullets on a battlefield.

Debate is, in fact, the substitute for violence; it is the way we in America have, since the Civil War resolved our differences without bloodshed. It is a lesson for all the world, but particularly a lesson for our own people. The reprinting of these documents will provide a ready supply for Members to distribute and for the public to access.

So I join the gentleman from Florida (Mr. MICA) in supporting this very important resolution. I support him in his observations with reference to having available not only the pocket Constitution, but the annotated Constitution as well for the public and for Members so that we better understand the genius of our Founding Fathers and the contribution that American democracy makes to all the world.

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

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

I am pleased to join with the gentleman from Maryland (Mr. HOYER), who is the ranking member on the Committee on House Administration to support this resolution, a simple task for the Congress this afternoon to print copies of the Constitution and some other documents and to be made available to the public and Members.

In closing, I heard the gentleman from Maryland comment about Vaclav Havel and his presentation before the Congress. I was a Member of Congress at the time, but I sat as a guest in the House gallery; and I will never forget that infamous commentary by Mr. Havel who said just days ago he had been incarcerated in a prison and now he was addressing Congress. That event was particularly meaningful to me because my grandfather came from Slovakia which was part of the Czechoslovak Republic in 1989 when thousands and thousands of people took to the street in the beginning of the Velvet Revolution, and as we pass this small housekeeping resolution here to make these copies of our precious democratic documents available, we remember and commemorate today the fall of the Berlin Wall and basically the fall of Communism.

It is through the documents that we are authorizing the publication of today that we have extended to the world our framework of government. These documents have been the cornerstone for providing a guide post for these people who have brought their nations out of the ages and decades and decades of darkness.

Last night I had the opportunity to attend a dinner with the Czech and Slovak prime ministers and their ambassadors here as they celebrated. They had met with the President and other officials celebrating the 10th anniversary of their having gained freedom. Again, those documents that we provided offered encouragement. Programs that the United States promotes such as this help extend democracy, promotes freedom and opportunities, and provide the framework of government outlined by the Constitution to others. Today we see those results and it does give us a great sense of satisfaction.

It gives me, in closing, a great sense of satisfaction to work in a bipartisan manner with the gentleman from Maryland and our chairman, the gentleman from California (Mr. THOMAS), in asking the House of Representatives to pass this concurrent resolution of the House, House Concurrent Resolution 221 at this time.

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

The SPEAKER pro tempore (Mr. HOBSON). The question is on the motion offered by the gentleman from Florida (Mr. MICA) that the House suspend the rules and agree to House concurrent resolution, H. Con. Res. 221.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 1714, ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

Mr. DREIER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 366 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 366

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1714) to facilitate the use of electronic records and signatures in interstate or foreign commerce. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Commerce and the Judiciary now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule an amendment in the nature of a substitute printed in the Congressional Record and numbered 1. That amendment in the nature of a substitute shall be considered as read. No amendment to that amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment; and (2) reduce to five minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from California (Mr. DREIER) is recognized for 1 hour.

(Mr. DREIER asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. DREIER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Dayton, Ohio (Mr. HALL), my very good friend; and pending that I yield myself such time as I may consume. All time that I will be yielding will be for debate purposes only.

Mr. Speaker, this rule provides for the consideration of a bill, H.R. 1714, that is critically important to consumers in our 21st century information-age economy. It is also appropriate that we consider this legislation on the heels of last week's passage of S. 900, the Financial Services Modernization Act.

As significant as S. 900 is to bringing our financial services laws up to date with the realities of the current marketplace, H.R. 1714 will actually do more to empower consumers of financial products and other goods and services and establish the framework for competition in the emerging electronic marketplace. For this I applaud the efforts of the gentleman from Virginia (Mr. BLILEY) to move this legislation forward.

This is a structured rule providing for 1 hour of general debate, divided equally between the chairman and ranking minority member of the Committee on Commerce. The rule makes in order as an original bill for the purpose of amendment the amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD and numbered 1. That amendment in the nature of a substitute is identical to the bill which on November 1 fell just three votes short of the two-thirds majority necessary for passage of a measure under suspension of the rules.

The rule provides for consideration of only the two amendments printed in the rules report, as the Clerk just gave us, which may be offered only in the order printed in the RECORD, may be offered only by the designated Member, shall be considered as read, shall not be divisible, and shall be debated for 30 minutes, equally divided and controlled by a proponent and an opponent.

The first amendment is the bipartisan Inslee-Eshoo-Smith–Dooley-Moran-Roukema amendment, which I urge my colleagues to support. It preserves all Federal and State consumer protection laws and actually creates new consumer rights in the area of electronic commerce.

The second is a gutting amendment offered by Representatives DINGELL, CONYERS, LAFALCE and GEPHARDT which, if adopted, will leave all consumers to ponder the question: Why did I just spend $1,200 on a computer? Now, think about it, Mr. Speaker. The scale of electronic commerce is undergoing dramatic change as a result of the Internet, networking and communications technology, and the expansion of computer memory and storage capabilities. Computer-to-computer communication is increasingly being used to initiate and execute a substantial and growing number of personal business and financial transactions.

Enactment of this E-SIGN bill will transform the way we work, the way we are educated, the way we contract for goods and services, and the way we are governed. It will make it easier for people using just a computer and a modem to pay their bills, apply for mortgages, trade securities and purchase goods and services without ever leaving the confines of their homes or offices.

☐ 1215

But the consumer revolution that would be unleashed by this bill may never see the light of day if the Dingell-Gephardt amendment is adopted. So I am going to once again urge my colleagues to oppose that clearly anti-consumer amendment.

Mr. Speaker, my State of California is home to many of the companies that produce the technologies that are shaping the global electronic marketplace. In talking with business leaders in the fields of technology and finance, I am convinced that the promise of electronic commerce will never be fully realized without the establishment of a clear, uniform national framework governing both, and I emphasize both, digital signatures and records.

This is one of the most important economic challenges facing Congress, as our country transitions into our 21st century Information Age economy. With H.R. 1714, businesses and consumers can be confident that the transactions we engage in electronically are both safe and secure. This bill addresses this challenge in a way that ensures that competition and consumer choice remain the hallmarks of the emerging global electronic marketplace.

Mr. Speaker, this bill is one that is deserving of bipartisan support, as was evidenced in the suspension vote, although, as I said, we were just three votes short of what we needed to pass it. So I assume that the rule will sail right through and the bill, with only the amendment of the gentleman from Washington (Mr. INSLEE), will sail through, too.

Mr. Speaker, I urge my colleagues' support of both, and I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a restrictive rule which will allow for the consideration of H.R. 1714. As my colleague, the gentleman from California, has explained, this rule provides 1 hour of general debate, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Commerce.

This restrictive rule will permit only two /AELDZ to the base text. No other amendments may be offered. Mr. Speaker, electronic commerce has become part of our life for millions of Americans who use the Internet to conduct business. Congress needs to update our laws so that buyers and sellers can take better advantage of the new technology. One such change is to give electronic signatures and contracts the

same legal force as written signatures and contracts.

In concept, this change has broad support on both sides of the aisle and on both ends of Pennsylvania Avenue. This positive development would encourage electronic commercial activity and benefit both business and consumers.

Unfortunately, this bill goes beyond electronic signatures and contracts. It contains controversial provisions preempting State laws that require maintaining certain written records. It contains provisions opposed by consumer groups that would permit electronic notices and disclosures to be substituted for written notices. For these reasons, the bill failed to achieve the necessary two-thirds vote when it was considered earlier this month under suspension of the rules.

This restrictive rule we are now considering does make in order an amendment offered by the gentleman from Michigan (Mr. DINGELL), the gentleman from Michigan (Mr. CONYERS), the gentleman from New York (Mr. LAFALCE), and the gentleman from Missouri (Mr. GEPHARDT), which will remove the controversial provisions of the bill and leave much needed language dealing with electronic signatures and contracts.

The rule also makes in order a bipartisan amendment that contains a number of consumer protections. The House is not served by rules which restrict the amendment process on legislation so important to the Nation's commerce. However, the two amendments which are made in order will give Members the opportunities to make meaningful changes to the bill.

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

(Ms. LOFGREN asked and was given permission to revise and extend his remarks.)

Ms. LOFGREN. Mr. Speaker, I am very pleased that the rule makes in order the amendment offered by the gentleman from Washington (Mr. INSLEE), along with the gentlewoman from California (Ms. ESHOO), myself, and several other individuals, which strengthens and I believe solves the consumer protection issues that were of concern to some Members.

Specifically, on the third page of the amendment, and I will quote, the amendment would provide that ''Nothing in this Act affects the content or timing of any disclosure required to be provided to any consumer under any statute, regulation, or other rule of law.'' I think that is about as broad as we can get in terms of making sure that consumer protection statutes are undisturbed by this electronic signature act.

It is my understanding that the chairman of the Committee on Commerce is disposed to favor this amendment, and I think that shows the bipartisan effort that has been underway to make sure that this electronic signature act does become law. The other important provision of the bill guarantees the consumers the right to opt into electronic records, and really an astoundingly broad provision that allows the consumer to withdraw his or her consent at any time.

So I think this is a light touch in terms of regulation, but there is a need for consistency and a general scheme for electronic commerce, as we all know.

I am hopeful that Members will read the language of the Inslee amendment, along with the underlying bill, so they can assure themselves, as I have been assured, that this is a fair measure that will promote e-commerce and will do no harm to other important issues. Please do read the amendment, instead of just listening to the arguments.

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

Mr. HASTINGS of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just wanted to say very briefly that this is a bill that clearly moves us forward and recognizes e-trade and so forth. With that, I would urge the Members to support the rule and the underlying legislation.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous matter on H.R. 1714.

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

There was no objection.

ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

The SPEAKER pro tempore. Pursuant to House Resolution 366 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1714.

The Chair designates the gentleman from Texas (Mr. BONILLA) as Chairman of the Committee of the Whole, and requests the gentleman from Washington (Mr. HASTINGS) to assume the chair temporarily.

□ 1226

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1714) to facilitate the use of electronic records and signatures in interstate or foreign commerce, with Mr. HASTINGS of Washington (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Michigan (Mr. DINGELL) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, last Monday the Committee on Commerce brought H.R. 1714, the Electronic Signatures in Global and National Commerce Act, to the floor under suspension of the rules.

Unfortunately, H.R. 1714 fell just four short votes of passage. The Clinton administration and minority leadership of this body mounted an intense lobbying campaign against the bill. We were proud of the number of votes that we were able to achieve in support of the bill, and we return to the House floor this week with the identical bill that was considered last Monday.

We remain confident that H.R. 1714 is strong legislation that helps to facilitate e-commerce in the new economy. This bill is perhaps the most important pro-technology vote that this Congress will take. It should not fall prey to partisan battles.

The Committee on Commerce unanimously, Mr. Chairman, unanimously voted this bill out of the committee this summer with support from both sides of the aisle. Since that time, we have worked closely with the minority leadership of the committee to craft the additional consumer protection provisions that appear in the bill considered last week and remain in the bill today.

We believe those negotiations to be fair and worthwhile, and were disappointed to learn for the first time on the floor last week that the minority did not feel the same. These important new provisions offer consumers strong protection in the electronic world. They require consumers to opt in if they wish to receive their documents in electronic form.

Let me repeat, nothing, nothing in this bill requires consumers to receive documents electronically against their wishes. Further, the bill requires that all consumers must receive important notices that may affect health or safety in the traditional paper form. This includes notices of such as the termination of utility service, cancellation of health benefits or life insurance, and foreclosure or eviction from a residence.

I would like to take this opportunity to rebut some of the charges and unfounded attacks that were made by my colleagues across the aisle when this bill was brought to the floor last week.

We heard that under H.R. 1714, consumers would be forced to accept electronic documents, even if the consumer

did not have a computer or an e-mail account.

□ 1230

We also heard that 1714 will sweep away Federal and State consumer protection laws. These claims, Mr. Chairman, are completely false.

As I have said many times previously, consumers must have safety, security, and privacy on line or they will not accept this new technology. H.R. 1714 provides on-line consumers with a confident assurance that their on-line transactions will be secure and that they will continue to receive the same consumer protections as consumers purchasing a product at a local shopping mall.

We also heard, much to my surprise, claims that the process for considering H.R. 1714 was unfair. First, it was claimed that the bill had been substantially changed since the minority had last seen it. In fact, it was even charged that the consumer protections in the bill had been removed. This is simply untrue.

We provided the minority with a copy of the text of H.R. 1714 before it came to the floor, and with minor exceptions that strengthen consumer protections, it was identical to the bill that they had agreed to just days before. The only real change was that the minority leadership had called a meeting with a number of Committee on Commerce Democrats in which they were told to stop cooperating with the majority, so we had the instance of politics overriding substance.

Mr. Chairman, there were also charges that the bill was brought to the floor too quickly. Again, such a claim is false. H.R. 1714 was approved by the Committee on Commerce unanimously by voice vote on August 5. We filed our report on September 27. The bill was originally scheduled to come to the floor on October 18, but I asked it to be withdrawn so that we could continue to negotiate with the minority.

The bill brought to the floor on November 1 was the product of 2 weeks of negotiations with the minority. This can hardly be considered rushing legislation to the floor. Some have said that all that was needed was one more day of negotiations. To that I say we have given the minority 14 days of negotiations.

Any charges that the majority acted in bad faith are simply incorrect. I gave the minority every opportunity to provide input from before the bill was introduced to right up until the bill came to the floor. I think our negotiations were very successful. In fact, key consumer protections in the bill, Mr. Chairman, were the result of our negotiations with the minority.

Unfortunately, at the last minute the minority leadership decided they had to block this legislation. They had to keep Republicans from passing an important pro-technology bill that enjoys unanimous support, unanimous support in the technology community.

I would also like to touch on one more important consumer issue that has been little discussed until now. Electronic signature technologies provide consumers with much more assurance that their transactions and communications will take place in a safe, secure and private environment. The encryption capabilities that are used to protect such valuable signatures offer much greater protection than ever possible in the traditional paper world.

Electronic signatures provide a level of authentication that far surpasses the ink signature that has come to be the accepted standard. Moreover, H.R. 1714 makes it possible to have seamless and efficient processing of electronic signatures records. Electronic transactions have much less chance of human error, and provide for more reliable retention after the initial transaction takes place.

Critics have argued that this bill should not apply to records. In fact, they want to severely narrow the bill's scope to delete records. This would be a shame and I could not support it. Records are an important component in electronic commerce transactions. Consumers will benefit from the use of electronic records and we should provide the legal framework to allow their use and acceptance.

The world is moving towards a paperless society and we cannot sit back and ignore reality as some would like us to do. A proper course of action is to address records by adding appropriate consumer protections like we have done in H.R. 1714.

Mr. Chairman, the 105th Congress was credited with passing monumental legislation to help facilitate E-commerce. This vote is perhaps the most critical one that the 106th Congress will consider to continue the growth and success of the digital economy. If Members support the U.S. high-tech industry, they will vote ''yes'' on this bill. A vote in support of H.R. 1714 is a vote to support providing consumers with greater security in on-line transactions. It is a vote in support of allowing business to provide new and innovative services on line.

Mr. Chairman, I understand that an amendment will be offered today by a number of my colleagues, including the gentleman from Washington (Mr. INSLEE), the gentlewoman from California (Ms. ESHOO), the gentleman from Virginia (Mr. MORAN) and the gentlewoman from California (Ms. LOFGREN). This amendment further clarifies the important consumer protections that are included in this bill. I thank the gentleman from Washington (Mr. INSLEE) and his colleagues for their constructive work on this amendment and recognize that he and several other Members of his party have made valuable contributions to this process, instead of trying to undermine it.

Mr. Chairman, I will support this amendment and I ask that all Members of the House do the same. I urge my colleagues to rise above partisan politics and support H.R. 1714.

Mr. Chairman, in September, the Banking Committee raised with the Commerce Committee the need to make clear that the ''the autonomy of parties'' provision of the reported version of H.R. 1714 was not intended to limit the authority of the Federal banking agencies to impose and enforce minimum safety and soundness standards for the use of electronic signatures and records by entities they regulate. I want to assure the Banking Committee today that the language in Section 103(a)(4) of the modified text before us this afternoon was drafted so as to accommodate those concerns. Nothing in this bill should be interpreted to interfere with the authority of federal banking agencies to impose and enforce minimum safety and soundness standards for the use of electronic signatures and records by entities they regulate.

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

Mr. DINGELL. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I want to express considerable affection and respect for the gentleman from Virginia (Mr. BLILEY), my good friend and the chairman of the committee. But I want to observe that he is in error on a number of important points.

First of all, we did have 2 weeks of negotiation and we were making good progress. Second of all, the gentleman from Virginia terminated the discussions and brought the bill to the floor without completing the negotiations. I would observe we were making good progress. I would observe we could have made further good progress and we could have a bill which could pass unanimously. Regrettably, we do not because there are important consumer protections which are missing from this bill.

The haste is charged up to partisanship. Well, that might perhaps tell more about the author of that statement than it does about anybody else. In point in fact, our concern here is protecting consumers and I will address that question as I go forward in my statement.

Mr. Chairman, I also would observe something else and that is that there is no magic to completing this legislation now, nor is there magic in completing it within 14 days. Completing legislation well in a fashion which serves the interests of all parties, those who would engage in electronic commerce and those who would be consumers and customers of those who engage in electronic commerce, is in the best traditions of this institution.

Now, Mr. Chairman, I would observe something else. The future of the American economy depends upon our making this new form of conducting business a success, one which can be accepted by all and which can be regarded as being fair indeed to all. Unfortunately, the bill before us contains major flaws that harm consumers, and I regret that the gentleman from Virginia did not give us more time in which to complete those matters.

Regrettably, I therefore must oppose the bill in its current form. The gentleman from Virginia (Mr. BLILEY) did

work closely with the minority to correct some of the deficiencies. I regret, however, that gaps remain, some of which are indeed serious.

It is interesting to note that many of the companies recommending and representing the high-tech community do not oppose the consumer protections which we think should be included. Regrettably, a small but nevertheless important minority of business interests continues to oppose consumer protections in any form. Those are not, regrettably, people in the electronic commerce business. Those are simply people in the financial interests of this country which want to have it all their way, and I can sympathize with my friend from Virginia in dealing with such an obdurate lot.

An amendment today which will be offered will seek to improve the legislation, and I commend the authors of the legislation, the gentlewoman from California (Ms. ESHOO), the gentleman from Washington (Mr. INSLEE), and others. Unfortunately, the amendment would improve certain aspects of the bill but, unfortunately, it still falls short.

The Bliley bill, even with the Inslee amendment, would harm consumers in several ways. First, it would not require any notice, conspicuous or otherwise, that consumers are entitled to receive certain records in writing under existing law. Before choosing to receive these documents electronically, I believe consumers should be given specific notice as to what existing rights they are giving up. Regrettably, the Bliley bill leaves consumers in the dark on this matter.

Secondly, the opt-in provision as currently structured in the bill before us would allow all sorts of dissimilar records to be bundled together giving, at best, confusion to the consumers and would require them to essentially take an all-or-nothing approach in which records they agree to receive electronically.

Clearly, there are records and records, and clearly they should and can be easily treated differently by the consumers and the purchasers.

In effect, an on-line merchant could require consumers to take it or leave it, thereby defeating the will of the parties, and especially the consumers, to receive some records electronically, but not others that they would prefer to receive in a traditional form.

Finally, the bill would allow merchants to vitiate contracts entirely if consumers do not agree to opt in to receiving records electronically. That is not an option. In the law it is called a ''contract of adhesion'' and in a word it is a contract which is not equal and in which the parties are not equal parties to a contract.

Clearly, if we are seeking to improve the attitude of consumers and to earn their trust, this is not the way that the matter should be handled. The administration shares these concerns and strongly supports the substitute which I will offer today with the gentleman from Missouri (Mr. GEPHARDT), the gentleman from Michigan (Mr. CONYERS) and the gentleman from New York (Mr. LAFALCE).

The administration has additional concerns, as do I, concerning the effect of this bill in on-line transactions. For these reasons I urge a ''no'' vote on H.R. 1714 and urge my colleagues to support the substitute which has been made in order by the Committee on Rules.

The substitute would take an important first step, fully recognizing the validity of electronic signatures in contract law. That is good. The legislation will give Congress the additional time to explore the effect on consumers of the new electronic contract laws to the myriad of important records and documents that accompany these agreements. It also would avoid stomping on the actions of legislatures in having created and in addressing contract problems, as they have traditionally done under the historic laws of the United States, wherein the matters of ordinary commerce are dealt with by the several States and dealt with well, indeed, under things like the Uniform Commercial Code.

Mr. Chairman, I see no reason for supplanting the knowledge, reason, and expertise and the traditions which have vested in the legislatures the ability to address these questions by adding a whole new array of changes which may or may not be in the consumers' interest and may not be in the interest of business in the United States and which clearly are opposed by consumer groups and by the administration.

Mr. Chairman, I ask unanimous consent to yield 15 minutes of my time to the distinguished gentleman from Michigan (Mr. CONYERS) to control as he sees fit.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. DINGELL. Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield 3½ minutes to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, I thank the gentleman from Virginia (Mr. BLILEY), chairman of the Committee on Commerce, for yielding me this time. I particularly want to commend him for this legislative effort and, like him, I want to thank particularly the gentlewoman from California (Ms. ESHOO) of our committee who has done such great work over the years in helping to develop an electronic signature bill for the E-commerce age, and the gentleman from Washington (Mr. INSLEE) and others for working with the chairman of the committee in offering a very helpful amendment that we are going to hear about later today.

Mr. Chairman, let me first say that this bill obviously has the support of an incredible array of business groups, including the United States Chamber, which is going to score this as one of our major votes this year because business sees this, of course, as a major step forward in the development of electronic commerce for our country and our country's economy.

But I want to speak more importantly about the impact of this E-SIGN bill on consumers. I think we all agree that consumers are the backbone of the electronic commerce model. If consumers do not feel comfortable, if they do not feel at ease with this new technology, then they are going to lose confidence in the growing electronic commerce of our country and the world, and that is certainly a result no one wants.

I understand, Mr. Chairman, that over 10 million Americans are going to join in the electronic commerce revolution this Christmas and make purchases for their Christmas gifts over the Internet.

☐ 1245

But as more and more consumers come to use the Internet and the electronic commerce, this E–SIGN bill is going to become more and more important. This bill strikes, I think, the right balance. It recognizes that we are moving toward electronic transactions and then allows many types of transactions to take place over the Internet while, at the same time, it continues to provide the protections that consumers have been accustomed to in the world of paper and written checks and contracts, and in the analog world itself.

H.R. 1714, which I was very pleased to join the gentleman from Virginia (Chairman BLILEY) in sponsoring in its onset, recognizes that there are important State and Federal laws that protect consumers today such as the requirement that consumers be provided copies of important documents such as warrants, notices, and disclosures.

This bill recognizes and retains these important consumer protection laws and develops a system whereby consumers can choose to accept electronic versions of the documents and then receive them electronically. Understand, consumers choose to do so.

It furthermore provides that consumers must separately and affirmatively opt in and consent to receiving important documents electronically and then must be assured that those documents can be retained for future use. That is why this bill has the right balance, good for business, good for consumers.

Let me say a word in opposition to the substitute that we will see. The substitute would apply only to contracts.

Let me give an example of what the substitute will miss. Today we spend almost $4 billion handling paper checks with an electronic commerce world; $4 billion could be saved for consumers if, in fact, we could literally bank electronically without the necessity of all this paper. Imagine all the weight this paper has in the transport industries as

cargo on planes. If one eliminates all that paper in our lives and in the shipment and cargoes and transportation, those kind of savings are ours if we reject the substitute and stick with the main bill.

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

Mr. Chairman, I would like to begin by thanking the gentleman from Michigan (Mr. DINGELL), dean of the House and the ranking member of the Committee on Commerce, for sharing the time in general debate with the Committee on the Judiciary that I represent on this side.

Now, Mr. Chairman, we all know there are millions of Internet users and millions of consumers, and that this number increases daily. It has been said here earlier, electronic commerce is the future of our economy. As more and more people buy and sell merchandise on-line, we find that e-commerce has made life easier for people as well as improved our overall economy by making shopping and other commercial transactions far more convenient.

I want to enact Federal legislation that would facilitate electronic signatures and make e-commerce more robust. We need to ensure that contracts are not denied validity that they otherwise would have simply because they are in electronic form or signed electronically.

Now, if the measure before us did this without doing violence to our most cherished and long-fought consumer protections, I would be supporting it without reservation. Now, especially with the recent decision in the Microsoft case, which suggests that a high-tech giant may not always be friendly to consumers, it makes it even more important than ever that consumers have confidence in the Internet and that they believe it is friendly and a friendly place to do business. This is critical to the future of this whole industry.

It is only when consumers have confidence in on-line transactions that it will become the vibrant marketplace that it can be. The high-tech community should not let itself be hijacked by security firms or banks or the insurance industry whose history with respect to consumers has not always been what we would wish it to be. The on-line community should be in the forefront of consumer protection. Instead, they are being dragged backwards by special interests.

That is where I hope that I may be able to be of some small help in this debate, because this measure, as it is written, goes far beyond the needs of the vast majority of on-line businesses. H.R. 1714 has become an 11th hour grab bag for our special interests to hurt consumers by undermining critical laws that require notice of rights and that prevent unscrupulous business people, of which, unfortunately, there are some, from cheating unsuspecting customers.

Because of the special interests overreaching, what started as an uncontroversial bill to validate electronic signatures and contracts has turned into a battle over the electronic records of every type imaginable. Let us try to rescue this measure from that kind of a result.

So for this reason, instead of considering a bill that should be a win-win situation, both for consumers and e-commerce, we are now being pressured into voting on a bill that pits the opportunities of one against the rights of the other.

It is, therefore, no surprise that the bill is opposed by our administration. It is opposed by consumer groups. It is opposed by the National Conference of State Legislatures and the United Automobile Workers and many others.

So what we have here is, unfortunately, a very good idea that has attached to it provisions that undermine consumer protection laws that would require notice, warranties, and disclosures to be in writing because it permits consumers to unwittingly click away many of these rights.

For example, critical notices regarding the cancellation or change in terms of insurance agreements or a change in the interest rate or the service or the change of a servicer of a mortgage, of recall notices, and other warranty information could be sent electronically or posted on a Web site regardless of whether the person owns a computer, which it may not come as news to you, many people do not, or whether the consumer has an e-mail account, which they may not, or whether they know how to navigate the World Wide Web even if they have the technology, some of which do not.

Furthermore, this measure stands for the proposition that the States somehow do not have the ability to enact their own electronic commerce laws or to reinstate many additional consumer protections.

So rather than respecting the tradition in our country of hundreds of years that reserves contract law to the States, the bill says that the States, that they may only reenact supplemental consumer legislation if it fits into a narrowly described category.

So far, thus, even if a State wanted to maintain its protections against fraudulent or deceptive practices and automobile sales, for example, the Federal Government would in effect tell the State that it cannot do so.

So for these and other reasons, we have created, along with the gentleman from Michigan (Mr. DINGELL) and the other Members, a substitute that represents the bipartisan language agreed on by Members of the other body, Members, Senator ABRAHAM and Senator LEAHY, that satisfies the needs of the high-tech community which we laud without sacrificing consumers in the process.

So I urge that my colleagues reserve their support for this substitute.

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

Mr. DINGELL. Mr. Chairman, I reserve the balance of my time.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. DAVIS) in strong support of this legislation.

(Mr. DAVIS of Virginia asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Virginia. Mr. Chairman, I am proud to be an original cosponsor of this legislation and also familiar with the need to provide legal certainty to electronic signatures and electronic records. That is why I eagerly cosponsored this legislation, because I think it is time for Congress to take positive, not regulatory, steps to help promote growth and development of electronic commerce.

Late last week, we were surprised by the minority leadership. They must have decided that appearing to oppose high-technology legislation was not the political stance, so they decided to introduce their own electronic signature bill, H.R. 3220, which we will be considering later today as a substitute amendment.

Unfortunately, that legislation falls way short of what is needed. The appearance of supporting technology legislation is not enough. There has to be substance behind that appearance. I believe that H.R. 3220 falls short.

Last week on the floor, I spoke at length about the important consumer protections contained in this legislation, H.R. 1714, and tried to rebut some of the claims that this was bad for consumers. I would like to briefly touch on some of those points.

First, consumers are absolutely free to choose or not to choose to enter into an electronic transaction. Nothing requires any party to use or accept electronic records or electronic signatures. The bill simply offers consumers the option to engage in electronic transactions. If a consumer does choose to conduct an on-line transaction, that consumer is protected by the underlying Federal or State laws governing that transaction.

If a law requires that a notice or a disclosure be made available in writing to a consumer, then those traditional writings must continue to be delivered to the consumer. Nothing in this bill, nothing, will nullify such existing State consumer protection laws.

Let me reiterate. Under H.R. 1714, consumers must be provided with important notices, disclosures, or other documents as they are entitled to receive under the current law.

Before a consumer can receive an electronic copy of an important document, such as a warranty or a disclosure, a consumer must separately and affirmatively consent to receive such a document electronically. That is, a consumer must specifically approve of receiving electronic documents and that portion of a contractor agreement telling a consumer what documents he or she will receive electronically.

I urge my colleagues to support this legislation. The companies and manufacturers that use electronic technology, along with on-line users, need this legislation.

Mr. DINGELL. Mr. Chairman, may I inquire of the time remaining.

The CHAIRMAN. The gentleman from Virginia (Mr. BLILEY) has 15½ minutes remaining. The gentleman from Michigan (Mr. CONYERS) has 7½ minutes remaining. The gentleman from Michigan (Mr. DINGELL) has 9 minutes remaining.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I thank the gentleman from Michigan, the distinguished ranking member of the House Committee on Commerce, for granting me the 2 minutes, especially since we hold opposing views on this. But I sincerely appreciate it.

Mr. Chairman, I rise in support of H.R. 1714, and I urge my colleagues to do support its passage.

I would like to thank the gentleman from Virginia (Mr. BLILEY), the distinguished chairman of the full committee, for his work on the legislation and for all of my colleagues for their interest in this very important public policy area.

As many of my colleagues know, I have a legislative history on the issue of electronic signatures in the Congress, having introduced the first piece of legislation addressing this issue in the last Congress and succeeding in passing it into law. That bill required Federal agencies to make government forms available on-line and accept a person's electronic signature on these forms.

In this Congress, I introduced a bill to expand the legality of electronic signatures to the private sector. Today, we are going to discuss a very important amendment to the bill of the gentleman from Virginia (Mr. BLILEY), which I believe improves the bill as it relates to consumer protections.

The bill includes technical neutrality, and it grants to States who have not yet adopted legislation in this area this piece of legislation; and if they so wish to come up with more stringent legislation in a given period of time, they then can do so.

□ 1300

I believe that the Congress must ensure that no roadblocks exist which would stymie the growth of e-commerce. So I think the Congress must act to bridge the gap between now and the time when every State has passed an updated form of the Uniform State Law Code. The projections for the growth of e-commerce and its effect on our economy are just simply too overwhelming. Business to business e-commerce was nearly five times greater than e-commerce in the consumer market, reaching $43 billion just last year.

This bill ensures that our laws do not impede this staggering growth, and with the adoption of the amendment that we are going to discuss, and which I am proud to offer with my colleague, the gentleman from Washington (Mr. INSLEE), and several other Democrats, the bill takes a major step in guaranteeing that strong consumer protections can coexist with transactions in cyberspace. I think that we can do both, Mr. Chairman, and I am proud to support this bill, H.R. 1714, and urge all of my colleagues to support it.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. OXLEY).

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

Mr. OXLEY. Mr. Chairman, I rise in strong support of H.R. 1714.

Last Thursday, Mr. Chairman, the House passed legislation to modernize the laws that govern our financial services industry. The laws we changed were more than 60 years old and had been bypassed in recent years by the marketplace. Congress was in many ways just trying to catch up with what had already happened. The lessons we learned in that debate I think are quite clear. If Congress cannot respond quickly to the changes in the marketplace and update the applicable laws, the inevitable result will be more harm than good. The longer we wait to act, the more entrenched the various factions will become, making it more difficult for legislation with each passing day.

We do not need another web of inconsistent State laws and Federal regulations that will leave consumers and businesses guessing whether their contract is valid or not just because it was conducted on line. Let us understand that the world is changing and the Congress needs to change the laws to reflect those inevitable changes. Electronic commerce is growing exponentially and will continue to change the way we conduct our business. Given the opportunity before us to enhance electronic commerce in the same manner the marketplace has, it would be foolish to a large extent not to provide the legal certainty that will benefit consumers and facilitate commerce. Our laws need to keep up with the significant technological developments.

This bill, sponsored by the chairman of the Committee on Commerce, the gentleman from Virginia (Mr. BLILEY), is designed to bring legal certainty to electronic transactions. Legal certainty. The parties need to understand that when they sign that contract there is a legal binding obligation on both of them, and the handwritten signature more and more becomes less and less significant.

Mr. Chairman, this is another essential step necessary for our economy to take advantage of the efficiencies of electronic commerce. This is the same exact legislation most of us supported just last week. I will also be supporting the amendment by our friend, the gentleman from Washington (Mr. INSLEE), who will be offering that recordkeeping provision and clarifying the recordkeeping provisions of the bill.

Mr. Chairman, this legislation is good public policy and it continues a strong tradition by the Committee on Commerce of enacting legislation that keeps up with the electronic marketplace that is changing so dramatically. I urge strong support of this legislation.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN), a member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Chairman, I am pleased to appear today in favor of 1714, especially after the Inslee amendment is adopted. I would like to say that some of the tinge of rhetoric that approaches partisanship, I think, is unfortunate.

I am privileged to serve with the gentleman from Michigan (Mr. CONYERS), the ranking member, who really has played such a leadership role in so many high-tech issues this year, including the patent reform bill and the Y2K reform bill. I mean we are here because we are dealing with difficult times, a transition from the analog world to the digital world, and I think that as we do that, we have to create a transition rule for the parts of the country that are not where Silicon Valley is yet.

In doing so, I think it is important that we establish some principles. I heard the distinguished Member from Michigan mention contracts of adhesion, and clearly contracts of adhesion violate contract law. I think it needs to be emphasized that nothing in this bill amends contract law other than the means of transmission. The medium for transmission does not change the substance of the law. A contract is a contract is a contract.

We recognize that because we are in a transition area there are certain things that are too high risk to have fully in electronic commerce in this transition period, including foreclosures of real property and the like, that are outlined in the bill of the gentleman from Virginia (Mr. BLILEY), but it is important that we take a step forward to promote electronic commerce.

How do I do it? We bought our last car on line. And when I get the notices, I just click and file those notices under my commercial receipts file in my e-mail account. When I go to amazon.com, and they send me the notices of where my books are on the way, I file those in a pending file. Some day, all of us will do that.

For now, this bill, with the amendment, will allow all of America to move forward.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. FOSSELLA), a distinguished member of the committee.

Mr. FOSSELLA. Mr. Chairman, I thank the chairman of the Committee on Commerce, the gentleman from Virginia (Mr. BLILEY), for yielding me this

time, and I compliment him for his efforts and his leadership.

The American people want action, they just do not want words. And when we add this to the Telecommunications Act of 1996, and as was mentioned earlier the Financial Modernization Act that was passed overwhelmingly by the House and Senate last week, I think the gentleman from Virginia (Mr. BLILEY) deserves a lot of credit from this Congress because, ultimately, it means good things for the American consumers, more jobs, and coming out on the side of growth, such as the case with the Electronic Signatures in Global and National Commerce Act.

I rise today in support of H.R. 1714, the Electronic Signatures in Global and National Commerce Act. As of today, the success of electronic commerce has led 44 States to enact laws to provide recognition for electronic signatures and records. However, all 44 statutes are different and many only recognize the use of electronic signatures and records in governmental transactions. In today's global economy, a certain level of uniformity is necessary in order to conduct the business over State and international borders. That is common sense.

While electronic commerce, in theory, represents the perfect model of interstate commerce, these many conflicting standards lead to legal uncertainty, to the point where it becomes impossible to effectively use electronic signatures in the digital arena.

H.R. 1714 creates a uniform nationwide legal standard for the use and acceptance of electronic signatures and electronic records in interstate commerce. It allows parties the freedom to set their own rules for using electronic signatures and electronic records in interstate commerce. Any contracts or agreements developed electronically by the agreeing parties have full legal effect.

H.R. 1714 furthermore recognizes the progress that States have already made in the area of electronic signatures and allows them to pass any statute that complies with the basic principles of this Federal bill.

Mr. Chairman, I urge my colleagues to join me in supporting this important bill. It is common sense and it puts Congress on the side of facilitating and encouraging economic growth instead of standing in its way.

Mr. CONYERS. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. BERMAN).

Mr. BERMAN. Mr. Chairman, I think the entire body wholly supports and we want to use this opportunity to encourage the growth of the Internet and e-commerce, but moving to a digital world, moving to the world of the Internet, it does not follow that every principle of Federalism and every principle of consumer protection should be wiped out, obviated and extinguished in the name of advancing e-commerce and e-contracts and e-signatures.

Eliminating hard fought laws, both State and Federal, that make sure that a consumer has the information that they need to make informed decisions takes us back to the age of scams and frauds, but this time in the on-line environment. We have been so successful in developing a legal environment that gives consumers' rights and assures that outlaw merchants are dealt with, it is not necessary and it benefits no one for the Internet to become the place for unscrupulous businesses to flourish. My fear is that H.R. 1714, the underlying bill sponsored by the gentleman from Virginia (Mr. BLILEY), would lead us down that path.

The high-tech industries are seeking an immediate Federal law validating electronic contract formation to help pave the way for the growth of electronic commerce until States can adopt a recently promulgated Uniform Electronic Transaction Act. We need to provide that help, but H.R. 1714 goes way, way beyond this need. It satisfies a much broader, much more controversial, long-range desire of financial services and insurance industries to accomplish the goal of the financial services.

H.R. 1714 seriously undercuts hard fought consumer protections as well as both Federal and State regulatory requirements. The bill threatens a State's ability to adopt a uniform State law with a permanent preemption provision.

The National Conference of State Legislatures, in their letter of November 1, opposes H.R. 1714, stating that the legislation will eviscerate consumer protections and impede the States' insurance securities and banking agencies in their regulatory oversight of the financial services industry. This from the State legislatures.

In a letter we received today, the National Consumers Law Center, the United Auto Workers, and the Consumers Union expressed their opposition for the underlying bill, and even with the Inslee amendment, and their support for the Dingell-Conyers-LaFalce-Gephardt substitute.

States and the Federal Government should have the opportunity to review their writing requirements and determine which can be done away with and which standards should apply in each specific situation where electronic records may be substituted. A reckless uninformed broad-brush approach, such as we see in H.R. 1714, is offensive to this notion. We cannot blindly wipe away State and Federal writing requirements and then provide a narrow patchwork of exceptions and opportunities for only States, not the Federal Government, not Federal regulatory agencies, to reestablish requirements where needed after some disastrous systemic failure.

The substitute amendment offered by the ranking member, the gentleman from Michigan (Mr. DINGELL) and his colleagues, provides the needed uniformity as to contract formation. It gives the boost that is needed for e-commerce without interfering with existing laws that address writing requirements for important notices, disclosures, or retained records necessary for regulatory or supervisory government activities.

This amendment, the Dingell amendment, is the very same language as the bipartisan compromise reached by Mr. ABRAHAM and Mr. LEAHY in the Senate. If H.R. 1714 were to pass the House, it would never see the light of the day in the Senate, it would be vetoed by the administration, and it would mark us as supporting an anti-consumer bill.

I urge opposition to the bill and support for the Dingell-Conyers amendment.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from Roanoke, Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Chairman, I want to thank the gentleman for yielding me this time, and I especially want to thank the gentleman from Virginia, the chairman of the Committee on Commerce, for his leadership on this issue. He has been at the forefront of this issue throughout this Congress, and this is vitally important legislation that I urge my colleagues to support and to oppose any substitutes or any alternatives.

The previous gentleman made reference to protecting consumers. In my opinion, this legislation does more to help consumers in the transactions that they participate in than anything that we could do with relation to making sure that they get prompt and adequate disclosure about contracts they sign.

☐ 1315

None of the current Federal or State laws are abrogated in terms of notices that go to consumers regarding particular transactions that they participate in. They simply will be allowed to receive those notices electronically now. And that has a number of very positive benefits.

First, it is faster. If there is a change in circumstances, if there is a problem with a product, a defect, they are going to get that notice much more quickly electronically than they will get it through the mail.

Secondly, it is cheaper. Some types of financial transactions are 100 times more costly to conduct in person than they are if they can conduct the transaction electronically. And if they are dealing with somebody on the other side of the country, the delay in being able to participate in that and close that contract, because we do not have a nationally recognized standard for accepting digital signatures, is very costly to consumers as well as to other people. Business people engage in business-to-business transactions, as well.

But probably the most important reason why this is more helpful to consumers than current law is that the information they get will be better; it will be more comprehensive.

If they have a notice about a particular disclosure that is required under the law for a real estate closing

or a bank loan, whatever the case might be, and they do not understand a particular word in that notice, under electronically transmitted information, the bank or the other company providing the information can put a whole host of other information on-line. They can click on a particular word in that notice and get an explanation of it, a definition of the word, if they do not understand what it means in that particular context.

So from the standpoint of the consumer, this is vitally important.

Secondly, from the standpoint of uniformity, of having one national area of commerce to be able to conduct business across State lines without the difficulties that come from a morass of, a variety of different laws from different States, that is vitally important.

Now, instead of being only able to buy from people nearby them all governed by the same State law, people are now empowered to buy things by auction or other ways on-line from a whole host of different ways.

I urge Members to reach across the line. We have had some differences on this bill. Let us have a strong bipartisan vote. It had almost a two-thirds vote when it came up under suspension. Let us give it a majority here today.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Washington State (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, I rise in support of H.R. 1714 after completion of our amendment.

I want to thank the gentleman from Michigan (Mr. DINGELL), the gentleman from Michigan (Mr. CONYERS), and the gentleman from New York (Mr. LAFALCE) for their guidance and longtime leadership on consumers issues. They have helped me craft this amendment in a way that I think will help consumers.

I want to thank the gentleman from Virginia (Chairman BLILEY) for his courtesy in trying to put this together.

Mr. Chairman, I want to tell my colleagues that I believe we have a product, after completion of our amendment, that is pro-consumer. I will tell my colleagues two reasons. Number one, this is a consumer freedom bill. It gives consumers a new freedom and the freedom to be allowed to receive information and complete transactions electronically, a right, a freedom that will remain theirs and theirs alone. Only consumers will have the prerogative to decide whether or not transactions are electronic.

Secondly, Mr. Chairman, I want to make abundantly clear throughout this debate, nothing in my amendment or the bill, nothing, not one word, will remove one single consumer protection to receive a notice of any law in this country State, Federal, or municipal. Look at page 3 of our amendment. Nothing will remove the right to get this notice.

All it does is it changes from papyrus or lambskin to electronic at the consumer's request.

Mr. BLILEY. Mr. Chairman, how much time do we have remaining?

The CHAIRMAN pro tempore (Mr. MILLER of Florida). The gentleman from Virginia (Mr. BLILEY) has 8 minutes remaining. The gentleman from Michigan (Mr. CONYERS) has 1½ minutes remaining. The gentleman from Michigan (Mr. DINGELL) has 6 minutes remaining.

Mr. BLILEY. Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I thank the distinguished gentleman from Michigan (Mr. DINGELL) for yielding me the time.

Mr. Chairman, I rise in opposition to this bill. I would have opposed the rule had I been here and requested a rollcall vote. The fact of the matter is, late in the session, first this is attempted to be passed on suspension of the rules. It has been a moving target for the last 3 weeks in terms of how this bill can be sold to the Members of this body.

I think any discussion or evaluation of this measure yields more and more problems that are inherent in the bill. The fundamental bill in terms of electronic signatures, as has been pointed out by some of my other colleagues, probably could have been passed with near unanimous support in this body.

The fact is that this bill does not just deal with electronic signature but goes on to invade a plethora of both State and national laws which are at the heart, basically, of financial transactions and consumer protection, which have received the deliberate judgment of this Congress for decades and, I trust, that of legislatures across this country.

It fundamentally invalidates any State law and a host of Federal laws that are inconsistent with the provisions of this bill. It permits consumers simply on the assumption that they understand what is in the disclosure documents and records to dispense with them and to receive them electronically.

I would just suggest that the efforts to date to try and repair this by virtue of accepting something like the Inslee amendment simply sugarcoats the end result. The end result will be the same.

I appreciate the effort of the gentleman to try and protect consumers. But, in the end, I think that that proposal may make something more palatable that is indigestible in terms of what goes down.

This bill fundamentally is an overreach. It sunsets all of these State laws with the right for States to come back and reenact them.

Well, we all know the host of special interest groups that are going to be there waiting to oppose that both at the Federal and State level such enactment. It just is breathtaking. And it is dumping and reneging on consumer laws that exist and protect individuals.

Mr. Chairman, I rise today in support of the amendment, and against the underlying legislation. While I favor an implementation of the use of electronic signatures, this measure sets a policy path of electronic commerce and computer dependence, and strips key federal and consumer safeguards and protections from transactions.

I have deep reservations about this legislation for reasons which I brought forth on the floor last week. One specific concern which I raised at that time was that H.R. 1714 completely undermines protections afforded by laws and regulations such as the Consumer Credit Protection Act, Truth in Saving, the Real Estate Settlement Procedures Act and other key consumer laws such as the Magnuson Moss Act, which is the federal law requiring basic information about the extent and limitations of warranties to consumers.

I requested to offer an amendment last night at rules which would add these protections to the provisions excluded in the bill, so that these laws would not be overridden. Unfortunately, this amendment was not made in order by the Rules Committee. By preserving, not preempting the requirements of these laws that afford consumers key information at the right time before, during and after transactions are consummated, the Vento amendment would have assured that essential information required by federal laws and regulations would not be made electronically when a consumer might not have a computer, might have a broken computer or printer, might acquire a new e-mail address or service provider, or might not clearly understand the importance of notifications or disclosures that they assent to obtaining electronic electronically, never to read or know if they missed it. Without these protections, populations like our seniors who are already at a technological disadvantage will be rendered even more vulnerable.

I also offered an amendment which would have added a new section providing privacy protections to this legislation. This too was rejected by the Rules Committee. Digital signatures will make it easier for consumers to buy goods and services directly from the comfort of their own homes, and allows businesses an unprecedented opportunity to reach more customers. This expansion of e-Commerce, however, should not come at the expense of allowing for the misuse or exploitation of a wide range of consumer data. This amendment would have allowed consumers to regain some control over their own personal information without unnecessarily hindering Internet services which collect information for legitimate purposes, and replace the self regulated environment that is being promoted today—without standards or compliance and no enforcement. It is unworkable and unacceptable.

Specifically, my amendment would have disallowed any Internet service from passing on information to a third party unless clear and conspicuous notice is provided and consumers are allowed an opportunity to direct that the information not be shared. In addition, consumers would be able to require a copy of the information compiled about them at no charge, and allowed to review, verify or correct such data. Internet services would still be able to share information with their affiliates, allowing them to perform necessary transactional services and functions. Most importantly, this amendment would have ensured that those businesses which offer services or products over the Internet take affirmative responsibility to maintain the integrity of the information being accumulated.

Recently, the House included privacy provisions into the Financial Services Modernization legislation. This was a step forward in the arena of providing safeguards for consumer data. However, we are all well aware that concerns regarding the protection of consumer data go far beyond the realm of the financial world. It is important that we in Congress support a clear and consistent message when dealing with the issue of information collection and use. This amendment would expand privacy regulations to ensure that consumers as well as businesses are able to utilize technology to its fullest potential without infringing on the basic right to privacy.

Some of my other concerns have been addressed by the Dingell/Conyers/LaFalce/Gephardt amendment, which I have cosponsored. This substitute amendment recognizes that in order to be successful, e-Commerce can not pit high-tech business against consumers. Additionally, it deals with another problem which I raised last week, by not undermining State rights and judgment in dealing with issues such as what records must be retained in paper forms and when and how consumers must be notified about changing circumstances or enforcement of key contract terms. Additionally, it provides that a contract may not be denied legal effect or enforceability solely because an electronic signature or electronic record was used in its formation. These are common sense measures which ensure that consumers are not the unsuspecting victims in the excitement to embrace technological advances in commercial dealings.

In conclusion, I feel that the House should address the issue of electronic signatures in its totality, and H.R. 1714 fails to address several areas which should be further improved. The consequences of moving too quickly on the implementation of legislation which will expand e-Commerce can not be underestimated. The law of unintended consequences should be avoided by not over reaching with the underlying measure. With the vast potential that the Internet promises, it is vital that we consider the interests and needs of businesses, the industry and consumers equally, so that everyone can benefit from this venture.

Mr. BLILEY. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, we have heard a lot about the digital divide. And certainly one exists between those school systems and communities who can afford to be wired and those who cannot.

But there is also a digital divide in the Congress. It is between those who understand the new economy and what constructive role we can play in it and those who are afraid of it and feel the need to protect us from it.

The people who are using the Internet with their computers around the country tend to be more confident of themselves than we are of them and their ability to use the New Economy to their advantage. They, in many ways, are more knowledgeable than we are about the role that computers can play in making their lives easier and more productive. They certainly want to be empowered to have the choice of whether or not they will use their computer to maximum advantage because they are far more interested in opportunity than in security.

In fact, when they were recently asked in a survey what was more important to them, opportunity or security, they saw opportunity overwhelmingly as more important to them. They wanted to be able to protect themselves, certainly, but they feel empowered to do that on their own. .

The fact is that the consumers that will be affected by this bill will be empowered, will be advantaged by this legislation. It is not just companies who will be able to operate more efficiently. It is consumers who want the ability to use their computers, to use the Internet in the most efficient and effective and legal, manner possible.

The fact is that in this bill consumers who will be using e-commerce, digitized signatures, have the opportunity to affirmatively and separately consent prior to receiving their notices electronically. It ensures that existing consumer protection laws that are in place today are maintained. The fact is that we build upon the laws that exist today.

This is going to come. It can either come with the support, the encouragement, the empowerment by the Congress, or it can come despite the Congress. We ought to work for and with the new economy, not in opposition to its culture and its opportunities.

My comments are really directed to my own party because I know that the opposition is well intentioned; and it is thoughtful and it is knowledgeable. But it is wrong and shortsighted. The reality is that what we are debating is already happening today.

Digitized signatures work. People find them to be not only easier to use but, in fact, entirely consistent with the economy in which they are operating. This will show that the Congress can be ahead of the curve, that Congress can play a constructive role, that the Congress can be leading instead of impeding. Instead of always trying to play catch-up like we had to do with the Financial Services Modernization Act.

Look to the consumers who are using the Internet. They are asking for this ability to use digitized signatures. This is what the new economy is all about. This is why we are so prosperous. We ought to be part of this progress by contributing to it and certainly not oppose thoughtful legislation like this.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Massachusetts (Mr. DELAHUNT).

Mr. CONYERS. Mr. Chairman, I yield 1½ minutes to the gentleman from Massachusetts (Mr. DELAHUNT), my colleague on the Committee on the Judiciary.

The CHAIRMAN pro tempore. The gentleman from Massachusetts (Mr. DELAHUNT) is recognized for 2½ minutes.

Mr. DELAHUNT. Mr. Chairman, I thank both gentlemen for yielding me the time.

Mr. Chairman, at our hearings on the Committee on the Judiciary, we were told that legislation was needed to ensure the validity of electronic agreements entered into by private parties until the States are able to adopt the uniform electronic transactions act. In other words, it was needed to fill the gap until the States could act.

That made sense. But then the bill was hijacked. Instead of filling the gap, it preempted the field; it prohibits the States from enacting the uniform law, as California has just recently already done, in a way that preserves consumer protections. It even prohibit the States from reenacting those protections to the extent that we supersede them.

Now, how do people who only yesterday were waving the banner of States' rights and espousing federalism defend a bill that sets aside the will of the States in such a cavalier fashion?

Well, we hear the term ''uniformity.'' Yet, if uniformity were all they were after, they would have been satisfied to let the bill sunset as the uniform act is adopted by each of the States over the coming months. And they did not. It is not in the bill.

What the proponents of the bill really want is to arrest the process, to prevent the States from preserving consumer protection laws, which they want to do away with. It is that simple. It is one thing to try to ensure the validity of electronic signatures. I support that effort, and I am sure if that was the import of the legislation it would pass unanimously in this body. But it is another attempt to use this legislation as an end run around State consumer protection legislation. That is what this bill is all about.

I urge adoption of the substitute and defeat of the bill.

Mr. Chairman, I rise in opposition to this bill and in support of the Dingell-Conyers-LaFalce-Gephardt substitute.

What we have here, Mr. Chairman, is a case of legislative hijacking. A bill intended to enhance the ease and security of electronic transactions has been commandeered. By a financial services industry that sees an opportunity to sweep aside a generation of state laws. Laws that enshrine such familiar and fundamental concepts as proper notice. Full disclosure. Informed consent. Truth in lending. Fair credit practices.

These laws have helped ensure that the ordinary citizen will not be taken advantage of by powerful commercial interests who have all the leverage. Who hold all the cards. And in so doing, these laws have helped maintain a thriving economy that depends on consumer confidence.

That is supposedly what this bill is about. Consumer confidence in electronic transactions. Yet ironically, by undermining state protections, this bill will erode consumer confidence. Not enhance it. If this bill becomes law, consumers will have fewer rights. And they will be less certain what rights they retain. Hardly a recipe for consumer confidence.

At our hearings, we were told that federal legislation was needed to ensure the validity of electronic agreements entered into by private parties until the states are able to adopt,

the Uniform Electronic Transactions Act. In other words, it was needed to fill the gap until the states could act.

But then the bill was hijacked. Instead of filling the gap, it preempts the field. It prohibits the states from enacting the uniform law—as California has recently done—in a way that preserves consumer protections. It even prohibits the states from RE-enacting those protections to the extent we supersede them.

How do people who only yesterday were waving the banner of ''states rights'' defend a bill that sets aside the will of the states in so cavalier a fashion?

They do so in the name of ''uniformity.'' yet it uniformity were all they were after, they would have been satisfied to let this bill sunset as the Uniform Act is adopted by each of the states over the coming months.

What the proponents of the bill really want is to arrest that process. To prevent the states from preserving consumer protection laws which they want to do away with. It is one thing to try to ensure the viability of electronic signatures, and I support that effort. But it is another to use this legislation as an ''end run'' around state consumer protection laws.

Apart from the policy considerations, it raises serious constitutional questions. Given the recent holdings of the Supreme Court regarding the limits of congressional power, I have serious doubts that we have the authority to preclude the states from re-enacting laws in an area of commercial activity that lies so squarely within their traditional sphere of competence.

We should do all we can to embrace and encourage the development of electronic commerce. But if that brave new digital world is to provide hospitable to human habitation, we must take with us the great advances in the law that have made this world habitable.

I am ready and willing to support a bill that does this, Mr. Chairman, but the current proposal falls too far short of the mark. That is why it is opposed by the Administration, and by every major consumer organization in the country.

I urge my colleagues to oppose the bill and support the substitute.

Mr. BLILEY. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore. The gentleman from Virginia (Mr. BLILEY) has 5 minutes remaining. The gentleman from Michigan (Mr. DINGELL) has 3 minutes remaining.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentlewoman from New Jersey (Mrs. ROUKEMA).

□ 1330

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman for yielding me this time. I will not take the entire 2 minutes. I had not anticipated speaking on behalf of the general debate, but I certainly do rise in strong support of this proposal.

I want to make it clear here that this is not anti-consumer, it is both pro-business and pro-consumer, it really does not denigrate or eliminate any consumer protections that are currently in law, and it goes beyond that. I particularly am a strong supporter of the Inslee amendment and would like to speak on that at the appropriate time.

I want to congratulate the chairman of the Committee on Commerce for his leadership here. This is excellent legislation. As a member of the Committee on Banking and Financial Services, I will look forward to continuing to work in the future on other aspects of e-commerce as it relates to more specific banking legislation.

I rise today in strong support of H.R. 1714, the Electronic Signatures in Global and National Commerce Act.

The bill accomplishes the two major, and often conflicting, goals of being both Pro Business and Pro Consumer. As we have heard, millions of Americans are shopping via the Internet everyday. The growth in e-commerce is expected to explode in the next 2 years with U.S. Consumers spending billions on line by the year 2001. E-commerce is happening as we speak. We here in Congress should do everything we can to promote e-commerce. I believe H.R. 1714 strikes the right balance between encouraging the growth of e-commerce while including common sense consumer protections.

The bill is Pro Business because it ensures that Internet transactions have the same legal effect and recognition as paper transactions. This is accomplished by establishment of a federal law which recognizes e-signatures as having the same force and effect as an ink signature. In addition, required records and disclosures may be delivered electronically IF the Consumer ''opts in''.

The bill is Pro Consumer because it encourages the growth of e-commerce—which has led to lower prices, greater choice and round the clock availability. These developments are all Pro Consumer.

Later on we are going to consider the Inslee/Eshoo/Dooley/Moan/Roukema Amendment. This Amendment includes several provisions from H.R. 2626, the Electronic Disclosures Delivery Act of 1999, which I introduced on September 1st along with Mr. INSLEE and Mr. LAZIO. The Amendment is pro consumer because it provides the additional consumer protections such as (1) Customer ''opt in'' for electronic delivery specifically required, (2) clear requirements on review, retention and printing of documents and disclosures, (3) the ability of a Customer to ''opt out'' of electronic delivery at any time.

I thought these were good provisions when I introduced H.R. 2626. I thought they were good provisions when proposed before the Rules Committee, and that is why I cosponsored the Inslee Amendment. It clearly improves the Bill and we should approve the Inslee Amendment later on when we have the opportunity.

Mr. Chairman, this bill is an extremely good bill. I urge strong support for H.R. 1714.

Mr. DINGELL. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the issue here is a very simple one. It is not about whether the contract may be signed electronically. Everyone here is in agreement that that is a good thing. It is about the notices which follow after that, notices of waste on a real estate contract, notice of failure to comply with requirements for insurance, failures of the electronic media to deliver.

An interesting thing to note would be that this proposal is going to come just in time, if it is signed into law, for the year 2K bug to bite. The question that has to be asked is what happens if the Internet provider is down and the individual does not get the notice. What happens if on that particular day there is a virus that contaminates the operation of the recipient or the sender, so the recipient never gets it. Look at the wide array of notices which are extremely important and which are protected in a wide array of State laws, notices of nonpayment of taxes, notices which would vitiate a mortgage, entitle the mortgagor to cancel or to foreclose. Those are things which would hurt the mortgagee.

I would ask my colleagues to understand that what we are trying to do here is not to stop electronic commerce or the signing of contracts electronically but, rather, to assure that a wider array of judgments are available to the purchaser and that he may then insist that he get, for very good reason, certain kinds of notices which he might view as being important. The mortgagor or the seller or the vendor under the contract has every right to ask that individual if he will then change the contract to waive those rights. But we are trying to protect historic rights that have always belonged to purchasers under written contracts under the law of the several States.

I would give Members just one last quote. Under Statement of Administration Policy, the administration makes this statement, and Members should be aware that they are probably looking at a veto here:

''The administration believes that en bloc amendments fall short of eliminating serious defects in H.R. 1714. The Secretaries of Commerce, Housing and Urban Development, and the Treasury will recommend the President veto H.R. 1714 with the en bloc amendments. For the reasons explained below and in the enclosed Statement of Administration Policy, the administration would support adoption of the Gephardt-Dingell-LaFalce-Conyers substitute.''

Let us try to pass something which will make progress, something which will protect consumers, something which will move forward electronic commerce but not something which affords enormous operation to hurt innocent purchasers around this country.

Mr. BLILEY. Mr. Chairman, I yield myself the balance of my time.

This has been an interesting debate. First of all let me say that this bill came out of the Committee on Commerce unanimously August 5. We have worked with the minority. It was originally scheduled for October 18 on the floor. They asked for further consideration. We pulled it. And we worked. Everything was all in agreement. And then last Friday, the White House comes down here and gets a meeting with the Democrat leadership and all of a sudden this becomes a terrible bill. Nothing could be further from the truth. This is a thing to prevent this

legislation being adopted on Republicans' watch.

Let me give Members a list of the people who support this legislation:

IBM, Information Technology Association of America, Information Technology Industry Council, Microsoft, American Insurance Association, Alliance of American Insurers, American Council of Life Insurance, Council of Insurance Agents and Brokers, National Association of Mutual Insurance Companies, National Association of Surety Bond Producers, Reinsurance Association of America, Securities Industry Association, America Online, America Electronics Association, GTE, MCI WorldCom, Cable and Wireless, DLJ Direct, PanAm Sat, Telecommunications Industry Association, National Retail Federation, Charles Schwab, Fidelity, Ford Motor Credit, National Association of Manufacturers, AT&T, U.S. Chamber of Commerce, and the Chamber will score this bill; Investment Company Institute, Yahoo, Equifax, International Biometric Industry Association, Consumer Mortgage Coalition, Financial Services Roundtable, Sallie Mae, Apple Computer, Hewlett-Packard, American Bankers Association, Consumer Bankers Association, the New York Stock Exchange, Business Software Alliance.

This is a good bill. Nobody in this legislation is coerced to do anything. They have to agree. And, working with the minority, we say that if there is anything to do with eviction, foreclosure, that this is exempted, it is carved out of here, you cannot do it this way.

Mr. Chairman, this is a good bill. We had a great vote a week ago. Let us not go back on that. Let us move the legislation forward, go to conference with the Senate, and then send legislation to the President.

Mrs. MINK of Hawaii. Mr. Speaker, I rise today in opposition to H.R. 1714, the Electronic Signatures in Global and National Commerce Act.

No one can deny what an amazing effect the Internet and electronic commerce has had on national and global commerce. The Internet has allowed some businesses to flourish in a global marketplace in a way not possible by traditional means.

The remarkable opportunities which the Internet and electronic commerce provides needs to be protected by ensuring that electronic signatures and contracts are held as legally valid and binding. H.R. 1714, however, is not the best bill to accomplish this because it achieves the goal of validating electronic signatures and contracts at the expense of American consumers.

If H.R. 1714 becomes law, we can expect that many of our Nation's consumers will unknowingly ''click away'' their rights because this bill does not ensure that any and all notices to consumers about their rights and the consequences of electronically signing their names be either clear or conspicuous. This is fundamentally unfair to consumers, especially those who may not yet be familiar with the concepts of the Internet and electronic commerce.

I urge my colleagues to protect consumers and reject H.R. 1714.

The CHAIRMAN pro tempore (Mr. MILLER of Florida). All time for general debate has expired.

In lieu of the amendments recommended by the Committees on Commerce and the Judiciary now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD and numbered 1. That amendment shall be considered read.

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

H.R. 1714

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 ''Electronic Signatures in Global and National Commerce Act''.

TITLE I—VALIDITY OF ELECTRONIC RECORDS AND SIGNATURES FOR COMMERCE

SEC. 101. GENERAL RULE OF VALIDITY.

(a) GENERAL RULE.—With respect to any contract, agreement, or record entered into or provided in, or affecting, interstate or foreign commerce, notwithstanding any statute, regulation, or other rule of law, the legal effect, validity, or enforceability of such contract, agreement, or record shall not be denied—

(1) on the ground that the contract, agreement, or record is not in writing if the contract, agreement, or record is an electronic record; or

(2) on the ground that the contract, agreement, or record is not signed or is not affirmed by a signature if the contract, agreement, or record is signed or affirmed by an electronic signature.

(b) AUTONOMY OF PARTIES IN COMMERCE.—

(1) IN GENERAL.—With respect to any contract, agreement, or record entered into or provided in, or affecting, interstate or foreign commerce—

(A) the parties to such contract, agreement, or record may establish procedures or requirements regarding the use and acceptance of electronic records and electronic signatures acceptable to such parties;

(B) the legal effect, validity, or enforceability of such contract, agreement, or record shall not be denied because of the type or method of electronic record or electronic signature selected by the parties in establishing such procedures or requirements; and

(C) nothing in this section requires any party to use or accept electronic records or electronic signatures.

(2) CONSENT TO ELECTRONIC RECORDS.—Notwithstanding subsection (a) and paragraph (1) of this subsection—

(A) if a statute, regulation, or other rule of law requires that a record be provided or made available to a consumer in writing, that requirement shall be satisfied by an electronic record if—

(i) the consumer has separately and affirmatively consented to the provision or availability of such record, or identified groups of records that include such record, as an electronic record; and

(ii) has not withdrawn such consent; and

(B) if such statute, regulation, or other rule of law requires that a record be retained, that requirement shall be satisfied if such record complies with the requirements of subparagraphs (A) and (B) of subsection (c)(1).

(c) RETENTION OF CONTRACTS, AGREEMENTS, AND RECORDS.—

(1) ACCURACY AND ACCESSIBILITY.—If a statute, regulation, or other rule of law requires that a contract, agreement, or record be in writing or be retained, that requirement is met by retaining an electronic record of the information in the contract, agreement, or record that—

(A) accurately reflects the information set forth in the contract, agreement, or record after it was first generated in its final form as an electronic record; and

(B) remains accessible, for the period required by such statute, regulation, or rule of law, for later reference, transmission, and printing.

(2) EXCEPTION.—A requirement to retain a contract, agreement, or record in accordance with paragraph (1) does not apply to any information whose sole purpose is to enable the contract, agreement, or record to be sent, communicated, or received.

(3) ORIGINALS.—If a statute, regulation, or other rule of law requires a contract, agreement, or record to be provided, available, or retained in its original form, or provides consequences if the contract, agreement, or record is not provided, available, or retained in its original form, that statute, regulation, or rule of law is satisfied by an electronic record that complies with paragraph (1).

(4) CHECKS.—If a statute, regulation, or other rule of law requires the retention of a check, that requirement is satisfied by retention of an electronic record of all the information on the front and back of the check in accordance with paragraph (1).

SEC. 102. AUTHORITY TO ALTER OR SUPERSEDE GENERAL RULE.

(a) PROCEDURE TO ALTER OR SUPERSEDE.—Except as provided in subsection (b), a State statute, regulation, or other rule of law may modify, limit, or supersede the provisions of section 101 if such statute, regulation, or rule of law—

(1)(A) constitutes an enactment or adoption of the Uniform Electronic Transactions Act as reported to the State legislatures by the National Conference of Commissioners on Uniform State Laws; or

(B) specifies the alternative procedures or requirements for the use or acceptance (or both) of electronic records or electronic signatures to establish the legal effect, validity, or enforceability of contracts, agreements, or records; and

(2) if enacted or adopted after the date of enactment of this Act, makes specific reference to this Act.

(b) LIMITATIONS ON ALTERATION OR SUPERSESSION.—A State statute, regulation, or other rule of law (including an insurance statute, regulation, or other rule of law), regardless of its date of enactment or adoption, that modifies, limits, or supersedes section 101 shall not be effective to the extent that such statute, regulation, or rule—

(1) discriminates in favor of or against a specific technology, process, or technique of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures;

(2) discriminates in favor of or against a specific type or size of entity engaged in the business of facilitating the use of electronic records or electronic signatures;

(3) is based on procedures or requirements that are not specific or that are not publicly available; or

(4) is otherwise inconsistent with the provisions of this title.

(c) EXCEPTION.—Notwithstanding subsection (b), a State may, by statute, regulation, or rule of law enacted or adopted after the date of enactment of this Act, require

specific notices to be provided or made available in writing if such notices are necessary for the protection of the safety or health of an individual consumer. A consumer may not, pursuant to section 101(b)(2), consent to the provision or availability of such notice solely as an electronic record.

SEC. 103. SPECIFIC EXCLUSIONS.

(a) EXCEPTED REQUIREMENTS.—The provisions of section 101 shall not apply to a contract, agreement, or record to the extent it is governed by—

(1) a statute, regulation, or other rule of law governing the creation and execution of wills, codicils, or testamentary trusts;

(2) a statute, regulation, or other rule of law governing adoption, divorce, or other matters of family law;

(3) the Uniform Commercial Code, as in effect in any State, other than sections 1-107 and 1-206 and Articles 2 and 2A;

(4) any requirement by a Federal regulatory agency or self-regulatory organization that records be filed or maintained in a specified standard or standards (including a specified format or formats), except that nothing in this paragraph relieves any Federal regulatory agency of its obligations under the Government Paperwork Elimination Act (title XVII of Public Law 105–277);

(5) the Uniform Anatomical Gift Act; or

(6) the Uniform Health-Care Decisions Act.

(b) ADDITIONAL EXCEPTIONS.—The provisions of section 101 shall not apply to—

(1) any contract, agreement, or record entered into between a party and a State agency if the State agency is not acting as a market participant in or affecting interstate commerce;

(2) court orders or notices, or official court documents (including briefs, pleadings, and other writings) required to be executed in connection with court proceedings; or

(3) any notice concerning—

(A) the cancellation or termination of utility services (including water, heat, and power);

(B) default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual; or

(C) the cancellation or termination of health insurance or benefits or life insurance benefits (excluding annuities).

SEC. 104. STUDY.

(a) FOLLOWUP STUDY.—Within 5 years after the date of enactment of this Act, the Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall conduct an inquiry regarding any State statutes, regulations, or other rules of law enacted or adopted after such date of enactment pursuant to section 102(a), and the extent to which such statutes, regulations, and rules comply with section 102(b).

(b) REPORT.—The Secretary shall submit a report to the Congress regarding the results of such inquiry by the conclusion of such 5-year period.

SEC. 105. DEFINITIONS.

For purposes of this title:

(1) ELECTRONIC RECORD.—The term ''electronic record'' means a writing, document, or other record created, stored, generated, received, or communicated by electronic means.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means information or data in electronic form, attached to or logically associated with an electronic record, and executed or adopted by a person or an electronic agent of a person, with the intent to sign a contract, agreement, or record.

(3) ELECTRONIC.—The term ''electronic'' means of or relating to technology having electrical, digital, magnetic, optical, electromagnetic, or similar capabilities regardless of medium.

(4) ELECTRONIC AGENT.—The term ''electronic agent'' means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records in whole or in part without review by an individual at the time of the action or response.

(5) RECORD.—The term ''record'' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(6) FEDERAL REGULATORY AGENCY.—The term ''Federal regulatory agency' means an agency, as that term is defined in section 552(f) of title 5, United States Code, that is authorized by Federal law to impose requirements by rule, regulation, order, or other legal instrument.

(7) SELF-REGULATORY ORGANIZATION.—The term ''self-regulatory organization'' means an organization or entity that is not a Federal regulatory agency or a State, but that is under the supervision of a Federal regulatory agency and is authorized under Federal law to adopt and administer rules applicable to its members that are enforced by such organization or entity, by a Federal regulatory agency, or by another self-regulatory organization.

TITLE II—DEVELOPMENT AND ADOPTION OF ELECTRONIC SIGNATURE PRODUCTS AND SERVICES

SEC. 201. TREATMENT OF ELECTRONIC SIGNATURES IN INTERSTATE AND FOREIGN COMMERCE.

(a) INQUIRY REGARDING IMPEDIMENTS TO COMMERCE.—

(1) INQUIRIES REQUIRED.—Within 180 days after the date of the enactment of this Act, and biennially thereafter, the Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall complete an inquiry to—

(A) identify any domestic and foreign impediments to commerce in electronic signature products and services and the manners in which and extent to which such impediments inhibit the development of interstate and foreign commerce;

(B) identify constraints imposed by foreign nations or international organizations that constitute barriers to providers of electronic signature products or services; and

(C) identify the degree to which other nations and international organizations are complying with the principles in subsection (b)(2).

(2) SUBMISSION.—The Secretary shall submit a report to the Congress regarding the results of each such inquiry within 90 days after the conclusion of such inquiry. Such report shall include a description of the actions taken by the Secretary pursuant to subsection (b) of this section.

(b) PROMOTION OF ELECTRONIC SIGNATURES.—

(1) REQUIRED ACTIONS.—The Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall promote the acceptance and use, on an international basis, of electronic signatures in accordance with the principles specified in paragraph (2) and in a manner consistent with section 101 of this Act. The Secretary of Commerce shall take all actions necessary in a manner consistent with such principles to eliminate or reduce, to the maximum extent possible, the impediments to commerce in electronic signatures, including those identified in the inquiries under subsection (a) for the purpose of facilitating the development of interstate and foreign commerce.

(2) PRINCIPLES.—The principles specified in this paragraph are the following:

(A) Free markets and self-regulation, rather than government standard-setting or rules, should govern the development and use of electronic records and electronic signatures.

(B) Neutrality and nondiscrimination should be observed among providers of and technologies for electronic records and electronic signatures.

(C) Parties to a transaction should be permitted to establish requirements regarding the use of electronic records and electronic signatures acceptable to such parties.

(D) Parties to a transaction—

(i) should be permitted to determine the appropriate authentication technologies and implementation models for their transactions, with assurance that those technologies and implementation models will be recognized and enforced; and

(ii) should have the opportunity to prove in court or other proceedings that their authentication approaches and their transactions are valid.

(E) Electronic records and electronic signatures in a form acceptable to the parties should not be denied legal effect, validity, or enforceability on the ground that they are not in writing.

(F) De jure or de facto imposition of standards on private industry through foreign adoption of regulations or policies with respect to electronic records and electronic signatures should be avoided.

(G) Paper-based obstacles to electronic transactions should be removed.

(c) CONSULTATION.—In conducting the activities required by this section, the Secretary shall consult with users and providers of electronic signature products and services and other interested persons.

(d) PRIVACY.—Nothing in this section shall be construed to require the Secretary or the Assistant Secretary to take any action that would adversely affect the privacy of consumers.

(e) DEFINITIONS.—As used in this section, the terms ''electronic record'' and ''electronic signature'' have the meanings provided in section 104 of the Electronic Signatures in Global and National Commerce Act.

TITLE III—USE OF ELECTRONIC RECORDS AND SIGNATURES UNDER FEDERAL SECURITIES LAW

SEC. 301. GENERAL VALIDITY OF ELECTRONIC RECORDS AND SIGNATURES.

Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended by adding at the end the following new subsection:

''(h) REFERENCES TO WRITTEN RECORDS AND SIGNATURES.—

''(1) GENERAL VALIDITY OF ELECTRONIC RECORDS AND SIGNATURES.—Except as otherwise provided in this subsection—

''(A) if a contract, agreement, or record (as defined in subsection (a)(37)) is required by the securities laws or any rule or regulation thereunder (including a rule or regulation of a self-regulatory organization), and is required by Federal or State statute, regulation, or other rule of law to be in writing, the legal effect, validity, or enforceability of such contract, agreement, or record shall not be denied on the ground that the contract, agreement, or record is not in writing if the contract, agreement, or record is an electronic record;

''(B) if a contract, agreement, or record is required by the securities laws or any rule or regulation thereunder (including a rule or regulation of a self-regulatory organization), and is required by Federal or State statute, regulation, or other rule of law to be signed, the legal effect, validity, or enforceability of such contract, agreement, or record shall not

be denied on the ground that such contract, agreement, or record is not signed or is not affirmed by a signature if the contract, agreement, or record is signed or affirmed by an electronic signature; and

''(C) if a broker, dealer, transfer agent, investment adviser, or investment company enters into a contract or agreement with, or accepts a record from, a customer or other counterparty, such broker, dealer, transfer agent, investment adviser, or investment company may accept and rely upon an electronic signature on such contract, agreement, or record, and such electronic signature shall not be denied legal effect, validity, or enforceability because it is an electronic signature.

''(2) IMPLEMENTATION.—

''(A) REGULATIONS.—The Commission may prescribe such regulations as may be necessary to carry out this subsection consistent with the public interest and the protection of investors.

''(B) NONDISCRIMINATION.—The regulations prescribed by the Commission under subparagraph (A) shall not—

''(i) discriminate in favor of or against a specific technology, method, or technique of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures; or

''(ii) discriminate in favor of or against a specific type or size of entity engaged in the business of facilitating the use of electronic records or electronic signatures.

''(3) EXCEPTIONS.—Notwithstanding any other provision of this subsection—

''(A) the Commission, an appropriate regulatory agency, or a self-regulatory organization may require that records be filed or maintained in a specified standard or standards (including a specified format or formats) if the records are required to be submitted to the Commission, an appropriate regulatory agency, or a self-regulatory organization, respectively, or are required by the Commission, an appropriate regulatory agency, or a self-regulatory organization to be retained; and

''(B) the Commission may require that contracts, agreements, or records relating to purchases and sales, or establishing accounts for conducting purchases and sales, of penny stocks be manually signed, and may require such manual signatures with respect to transactions in similar securities if the Commission determines that such securities are susceptible to fraud and that such fraud would be deterred or prevented by requiring manual signatures.

''(4) RELATION TO OTHER LAW.—The provisions of this subsection apply in lieu of the provisions of title I of the Electronic Signatures in Global and National Commerce Act to a contract, agreement, or record (as defined in subsection (a)(37)) that is required by the securities laws.

''(5) SAVINGS PROVISION.—Nothing in this subsection applies to any rule or regulation under the securities laws (including a rule or regulation of a self-regulatory organization) that is in effect on the date of enactment of the Electronic Signatures in Global and National Commerce Act and that requires a contract, agreement, or record to be in writing, to be submitted or retained in original form, or to be in a specified standard or standards (including a specified format or formats).

''(6) DEFINITIONS.—As used in this subsection:

''(A) ELECTRONIC RECORD.—The term 'electronic record' means a writing, document, or other record created, stored, generated, received, or communicated by electronic means.

''(B) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means information or data in electronic form, attached to or logically associated with an electronic record, and executed or adopted by a person or an electronic agent of a person, with the intent to sign a contract, agreement, or record.

''(C) ELECTRONIC.—The term 'electronic' means of or relating to technology having electrical, digital, magnetic, optical, electromagnetic, or similar capabilities regardless of medium.''.

The CHAIRMAN pro tempore. No amendment to that amendment shall be in order except those printed in House Report 106–462. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question.

The Chairman of the Committee of the Whole may postpone a request for a recorded vote on any amendment and may reduce to a minimum of 5 minutes the time for voting on any postponed question that immediately follows another vote, provided that the time for voting on the first question shall be a minimum of 15 minutes.

It is now in order to consider amendment No. 1 printed in House Report 106–462.

AMENDMENT NO. 1 OFFERED BY MR. INSLEE

Mr. INSLEE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. INSLEE:

In section 101(b), strike paragraph (2) and insert the following:

(2) CONSENT TO ELECTRONIC RECORDS.—Notwithstanding subsection (a) and paragraph (1) of this subsection—

(A) if a statute, regulation, or other rule of law requires that a record be provided or made available to a consumer in writing, that requirement shall be satisfied by an electronic record if—

(i) the consumer has affirmatively consented, by means of a consent that is conspicuous and visually separate from other terms, to the provision or availability (whichever is required) of such record (or identified groups of records that include such record) as an electronic record, and has not withdrawn such consent;

(ii) prior to consenting, the consumer is provided with a statement of the hardware and software requirements for access to and retention of electronic records; and

(iii) the consumer affirmatively acknowledges, by means of an acknowledgement that is conspicuous and visually separate from other terms, that—

(I) the consumer has an obligation to notify the provider of electronic records of any change in the consumer's electronic mail address or other location to which the electronic records may be provided; and

(II) if the consumer withdraws consent, the consumer has the obligation to notify the provider of electronic records of the electronic mail address or other location to which the records may be provided; and

(B) the record is capable of review, retention, and printing by the recipient if accessed using the hardware and software specified in the statement under subparagraph (A)(ii) at the time of the consumer's consent; and

(C) if such statute, regulation, or other rule of law requires that a record be retained, that requirement shall be satisfied if such record complies with the requirements of subparagraphs (A) and (B) of subsection (c)(1).

At the end of section 101, add the following new subsections:

(d) ABILITY TO CONTEST SIGNATURES AND CHARGES.—Nothing in this section shall be construed to limit or otherwise affect the rights of any person to assert that an electronic signature is a forgery, is used without authority, or otherwise is invalid for reasons that would invalidate the effect of a signature in written form. The use or acceptance of an electronic record or electronic signature by a consumer shall not constitute a waiver of any substantive protections afforded consumers under the Consumer Credit Protection Act.

(e) SCOPE.—This Act is intended to clarify the legal status of electronic records and electronic signatures in the context of writing and signing requirements imposed by law. Nothing in this Act affects the content or timing of any disclosure required to be provided to any consumer under any statute, regulation, or other rule of law.

In section 102(c), strike ''safety or health of an individual consumer'' and insert ''public health or safety of consumers''.

In section 104, add at the end the following new subsection:

(c) ADDITIONAL STUDY OF DELIVERY.—Within 18 months after the date of enactment of this Act, the Secretary of Commerce shall conduct an inquiry regarding the effectiveness of the delivery of electronic records to consumers using electronic mail as compared with delivery of written records via the United States Postal Service and private express mail services. The Secretary shall submit a report to the Congress regarding the results of such inquiry by the conclusion of such 18-month period.

The CHAIRMAN pro tempore. Pursuant to House Resolution 366, the gentleman from Washington (Mr. INSLEE) and the gentleman from Michigan (Mr. CONYERS) each will control 15 minutes.

The Chair recognizes the gentleman from Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I would like to tell Members what our goal was in drafting this amendment. Our goal basically is to assure an American's right to make the decision by themselves based on the information they have to receive information electronically and to form contracts electronically.

Our goal is based on the proposition something like this: If you read the Declaration of Independence, it reads just as well electronically as it does on a piece of paper. And when you receive information in an on-line transaction, if you want to purchase insurance, a car, a book, the information you are going to receive reads just as well electronically. Therefore, we have crafted an amendment that would assure that every consumer has a new right, and, that is, the right to decide they want to receive information electronically.

I want to point out several things about it. Number one, it makes sure that this is a decision made and has to

be made affirmatively by an American. They have to affirmatively take an action to disclose they want to do business electronically. Number two, and very importantly, this makes very clear that any requirement of any government in America to give any notice will still exist after the passage of this bill if this amendment prevails.

I want to read the applicable section. It reads:

Nothing in this Act affects the content or timing of any disclosure required to be provided to any consumer under any statute, regulation, or other rule of law.

I read this because I have heard many other Members suggest that somehow consumers will lose the right to receive notifications. This is inaccurate. This amendment will assure that every notification a person is entitled to receive, they will still be entitled to receive.

Third, it makes abundantly clear, we added a provision that consumers have to be notified what hardware and software they need to receive this information so that they are not acting blindly. We have heard suggestions that somehow electronic commerce is inefficient, ineffective. I think we have to realize sometimes the mail gets eaten by the dog as well, or misplaced, and, in fact, if consumers want to do business electronically, they should be entitled to do so.

We have also, fifth, provided that the credit card rules, the limitations of liability, still apply in this context, if somebody steals your identity essentially.

And, sixth, we provide, and I think this is very important because I have heard some misinformation on the floor already in this regard. Where the law requires provision of a notice, where a business has to provide notice to a consumer, they will still be required to provide notice, not simply post it on a website.

Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, when do you have information? Ten years ago, I was in local government and we organized our court files electronically and allowed the sheriff to access those court files for jail management. I remember going over to talk to the then sheriff who had deputies handwriting the information down on pieces of paper off the screen.

I asked, ''Why are you doing this?'' He said, ''So we'll really have the information.''

Do you have the information when it is on the screen, on your hard drive, in your head, or when it is on a piece of paper? The answer is, in all of those cases. We are not changing any consumer law at all with this bill and with this amendment. What we are doing is allowing for the free flow of information on the Internet, so that we can have electronic commerce, so that information in the Information Age can flow.

I have heard many expressions really of anxiety by Members about the Information Age and the concept that you have information when it is electronic. Let me assure my colleagues that you do and consumers will be fully protected under the amendment.

Mr. CONYERS. Mr. Chairman, I yield myself 3 minutes.

I want to start off by commending my friends that are with the gentleman from Washington (Mr. INSLEE) on his amendment. This is an important step forward. The problem is, it is still a half a loaf, and I appreciate the Democrats that are trying to improve it.

This amendment makes minor improvements in the underlying bill but, indeed, it makes it worse in several respects. That is why it is quite clear why financial services, industries and banks are supporting it and consumer groups are opposing it.

Here is why it is a backward step. It leaves to the courts to determine who bears the burden when an electronic disclosure notice is not received.

□ 1345

The bill does that. The Inslee amendment puts the burden squarely on the consumer's shoulders.

Mr. Chairman, H.R. 1714, the Bliley bill leaves it to the courts; the Inslee amendment leaves it to the consumer the responsibility of creating an affirmative obligation to notify a provider of a change of e-mail address.

Now, in addition, this will not be corrected by the Inslee amendment. No requirement that the consumer be told what legal rights he is waiving or to what types of records that is the notices, disclosures and statements, that the waiver applies to. Because both the bill and the amendment permit a consumer to waive writing requirements for groups, ''groups of records,'' and there is no requirement that the record be similar or relate to the same transaction. The consumer can, without any prior knowledge, waive all the future notices with one click.

This, I say to my colleagues, is the substance of what leads me to regretfully not be able to support the Inslee amendment. It does help in some respects, but in other respects, it is worse. For that reason I would urge that we think very carefully about this so-called improvement.

The amendment improves the opt-in by requiring it to be conspicuous and visually separate. But there is still no requirement that the consumer be told what legal rights he or she is waiving or what types of notices and disclosures the waiver applies to.

The Inslee amendment narrows the States' ability to reenact supplemental protective legislation for their citizens. This is not good. For that reason I ask that my colleagues critically evaluate this supposed improvement in the bill.

While I appreciate the efforts of my fellow Democrats to improve H.R. 1714, this amendment is merely an industry-drafted cosmetic fix that makes only minor improvements to the underlying bill, and indeed, makes it worse in several respects. Furthermore, it leaves unaddressed many fundamental problems of H.R. 1714.

It is therefore no surprise—and is quite telling, in fact—that this amendment is supported by the banks and financial services industries, but is opposed by the consumer groups.

The Inslee amendment is a step backwards for consumers in many ways. Unlike H.R. 1714, which leaves it to the courts to determine who bears the burden when an electronic disclosure or notice is not received, the Inslee amendment puts the burden squarely on consumers' shoulders by creating an affirmative obligation for consumers to notify a provider of a change of email address. The U.S. Postal Service has standardized procedures for address changes, forwarding mail, and returning mail to the sender that currently are not present in the on-line world. Without these real-world ''back-up'' mechanisms, this amendment simply creates a defense for merchant in cyberspace that it would not have in the physical world.

The Inslee amendment also is a step backward from H.R. 1714 because it takes away the requirement that when a contract is required by law to be in writing, the electronic record of the contract must: (1) accurately set forth the information in contract after it was first generated, and (2) remain accessible for later reference, transmission and printing. Under the amendment, these standards apply only where a law requires a record to be retained. This significantly undercuts the reach of H.R. 1714.

In addition, the Inslee amendment narrows the states' ability to reenact supplemental protective legislation for their citizens. Instead of allowing the states to enact laws for the safety or health of an individual consumer, the amendment permits the states to legislate only where it is necessary for the protection of ''public health or safety of consumers.'' Thus, if certain notices and disclosures are not for the benefit of the public health or safety and only benefit individual consumers—such as notices to individuals about changes in their insurance policies, or a specific consumer's late payment on his utilities—the state cannot enact or reenact supplemental laws for this purpose.

Furthermore, the Inslee amendment leaves in place many of the most troubling aspects of H.R. 1714. For instance, although the amendment improves the opt-in by making requiring it to be ''conspicuous'' and ''visually separate,'' there is still no requirement that the consumer be told what legal rights she is waiving or what types of notices and disclosures the waiver applies to. In addition, the consumer can still waive ''groups of records'' with one click, regardless of whether or not they are related to each other or if they are similar in nature.

The Inslee amendment also maintains the bill's broad preemption of state laws. In order for a state to avoid preemption by the federal statute, the Uniform Electronic Transactions Act, or UETA, must be consistent with the electronic contracts and records provisions of this bill. This does not give the states sufficient flexibility to exempt necessary state writing requirements. Ironically, even if a state adopted UETA without excepting any of its laws. The state would still be preempted by the federal law, because UETA does not provide for an

opt-in, and that would make the state law inconsistent with—and therefore preempted by—the federal law.

Another flaw with the Inslee amendment is that it does not address the regulatory and supervisory problems with H.R. 1714. Under this amendment, regulated industries such as the banking and insurance industries would still be relieved from their legal requirements to maintain paper records. How can a state insurance regulator determine if an insurance company is properly capitalized, or if it has the proper reinsurance it cannot access the company's electronic records, or if the regulator can not require that the company keep its records in a tamper-proof format?

I understand my colleagues' desire to improve H.R. 1714—because it needs much improvement. But the Inslee amendment just scratches the surface of what's needed to make the necessary improvements in H.R. 1714. Indeed, the amendment makes the bill worse in several respects.

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

Mr. INSLEE. Mr. Chairman, I would note that that click will waive no rights; it will simply indicate that notifications will be coming electronically rather than writing them in. A click will waive no rights under this amendment.

Mr. Chairman, I yield 1 minute and 40 seconds to the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Chairman, I thank the gentleman from Washington (Mr. INSLEE) for yielding me this time.

I am very proud to be offering this amendment with him and several of my Democratic colleagues as well as the gentlewoman from New Jersey (Mrs. ROUKEMA).

First, let me just stipulate that there is not any mandate in this amendment that says to the consumers of America that they have to go on-line and use digital signatures. There is not a mandate. This is all about choices, but it does add the protections to the consumer if they so choose to exercise this.

This amendment that we bring before my colleagues today I believe cures some of the criticisms, many of the criticisms of the underlying bill. Quite simply, it ensures that consumers who choose to receive electronic records from their banks, their mortgage companies, or their on-line trading brokers will make this decision knowingly. The amendment gives consumers the ability to opt in to receive electronic records and requires that the consent be conspicuous and visually separate from other terms. In other words, consumers must agree to a statement that they will accept the records electronically. This statement cannot be buried in a morass of terms and conditions. It must be clear and separate.

Additionally and importantly, this amendment requires that prior to consenting, consumers must be provided with an explanation of how to access and retain electronic records. This is important because if a consumer cannot review, retain, and print an electronic record, that record is not considered valid.

I am very proud of this amendment. I believe that it makes the bill totally acceptable. This should not be a partisan issue. We should come together from both sides of the aisle, because it protects consumers and it allows electronic commerce to go forward. I urge support of this amendment.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE), the distinguished ranking member of the Committee on Banking and Financial Services.

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

Mr. LAFALCE. Mr. Chairman, I think that almost everyone would favor the purposes of the primary bill before us today, and it is possible to achieve a good bill and a bipartisan bill. And, on the Senate side, Senator ABRAHAM, a Republican, Senator WYDEN, a Democrat, Senator LEAHY, a Democrat, and the administration have gotten together and basically they have come together in support of a good bill, and that is what the gentleman from Michigan (Mr. DINGELL) and the gentleman from Michigan (Mr. CONYERS) and I are going to offer as a substitute.

The gentleman from Washington (Mr. INSLEE) and the gentlewoman from California (Ms. ESHOO) are attempting to deal with the Bliley bill, which the administration strongly opposes and said they would veto with an amendment. I know they are good faith, but I point out that the National Consumer Law Center, the Consumer Federation of America, the United Auto Workers, the Consumers Union, the U.S. Public Interest Research Groups, and the National Consumers League have drafted a letter today which they have sent out to each of us which says, ''The Inslee-Eshoo amendment is a cosmetic attempt to make a dangerous bill appear more palatable. Further, this amendment will make it more difficult for consumers to assert their rights under existing consumer protection laws.''

So this is cosmetically attractive, but dangerous because of that very fact.

Mr. INSLEE. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. DOOLEY).

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

Mr. DOOLEY of California. Mr. Chairman, I rise in support of the underlying bill and also in strong support of the amendment offered by the gentleman from Washington (Mr. INSLEE), myself and a number of our colleagues.

This legislation is a step forward to trying to ensure that consumers and businesses have a better ability to conduct commerce over the Internet. This amendment that we are supporting today provides for added consumer protections. It ensures that every consumer will have to opt in in order to participate. It ensures that consumers will have to acknowledge the conditions of a contract. It also provides assurances that a consumer will have to acknowledge that they will have to notify the business or the entity that they might be doing business with if they change their e-mail.

This is not any different than what one would have to do with one's address at one's home if one is going to relocate.

Now, if we want to have people to have the benefits that the Internet can provide and e-commerce can provide, we have to understand that we are dealing with a different medium, and this amendment goes a long way to ensuring that consumers will have those protections, that they will have the notifications that are important for them to understand their responsibilities and obligations.

Mr. Chairman, I heard some folks earlier today talking in opposition to the underlying bill, but there are a lot of people out there that do not have a computer; there are a lot of people out there that do not have an e-mail address; there are a lot of people out there that do not know how to navigate the Web. Well, if we use that as a standard to preclude us from moving forward with digital signature, we are never going to get there. But we also have assured that any consumer that might not have a computer, that does not have e-mail, that they do not have to opt in to participate in a digital signature. We provide the consumer protections. This amendment is a good amendment; the underlying bill deserves passage.

Mr. CONYERS. Mr. Chairman, I yield 2½ minutes to the gentleman from California (Mr. BERMAN), a distinguished member of the Committee on the Judiciary.

Mr. BERMAN. Mr. Chairman, I rise in opposition to the amendment. While it makes some improvements in some parts of the base bill, it also in some areas actually goes backward. But I think the broader point is the point I would like to speak to.

We seem to be talking just totally by each other. No one here is opposed to the concept that we need to legislate a digital signature law so that people in places where there is now an obligation to enter into a writing-in contract can enter into a contract electronically and bind themselves to that through digital signatures along the standards of the bill. There is no dispute about that.

I hear my friend from Virginia speak in exciting and provocative terms about the new economy, the new elite, people who want the opportunity, they are governed by potentials and not their fears, and I say yes. But it is not a requirement to be an advocate of the new economy or to be a new Democrat to think that there are some people who will be caught in the transition and that maybe, where the Comptroller of the Currency decides that a particular bank should have a backup set

of records in writing because that might be the only place they can go to determine whether reserves are being kept adequately, or whether in a particular situation involving changes in an insurance policy, let us just validate that for this particular type of consumer whose, perhaps, adult children signed them on to the insurance policy electronically, we should validate it by the written contract, that we are going to just trample over these people in the name of doing something new and exciting.

Mr. Chairman, I do not have the arrogance to say that every single law that says that without regard to whom the consumer is, what the State of their mentality is, that we are going to wipe out some considered judgment by a regulator or by a State legislator, by a Federal legislator that in all circumstances, that is preempted.

The gentleman from Washington says his amendment waives no rights, but it does waive one right. By conscious decision, hopefully of a sophisticated and educated consumer, it waives the right to have the disclosures, the changes, the notices in writing. That is indisputable. His amendment waives that right. In most cases, that will be great. There might be a few cases where it is not great, and it is in those cases that I say let us be a little careful about just wiping out all of these laws.

Mr. INSLEE. Mr. Chairman, I yield 10 seconds to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Chairman, I think it is important to point out that there is no waiver of notice in writing. All we are talking about is transmission of that writing and whether the writing is received electronically or on a piece of paper, it is in writing in both cases.

Mr. INSLEE. Mr. Chairman, I yield 1½ minutes to the gentleman from Washington (Mr. SMITH).

Mr. SMITH of Washington. Mr. Chairman, I rise in support of the Inslee amendment and in support of the underlying bill.

Everyone says we all agree, we are going to have digital signature, it is just a matter of the details. Unfortunately, the details that are being presented by the opponents of the Inslee amendment and of the Dingell amendment are such that one would, in practical effect, not be able to do digital signature. If, first of all, one does not have uniformity and one is doing something across State lines and one has 50 or maybe even 100 different rules and regulations for how it is going to be done, it makes it very, very difficult to do business in the electronic commerce world. That is what the Dingell amendment would do. That creates a huge problem for the bill.

Second of all, it requires that paper be done in addition to the digital signature. Well, if we are going to have to do a paper contract, what is the advantage of doing a digital contract? One merely has to duplicate oneself. Those two provisions basically mean that what the opponents of the Inslee amendment are doing is creating a situation where digital signature will not be a choice that any logical businessman will make. That is why we have to oppose it.

Two final points. Consumer protection is clearly protected in this bill. The sentence says this law changes in no way one's contractual protections under consumer protection laws. We are simply doing it digitally instead of by paper. We have the same protections.

Lastly, this well, if one goes on a computer it could get lost, the computer could blow up; paper notices get lost all of the time. If one moves and the notice is required to go by mail, many times these notices do not arrive. Whether it is paper or digital, there are challenges in making sure that all of the notices get there. I strongly submit that those challenges are no greater with digital signature than they are with paper, and we are stuck in a lost mindset here thinking that somehow, if it is not paper, it is not real. If we do not do this right, we will not have digital signature. The Inslee amendment does it right. Support it.

□ 1400

Mr. CONYERS. Mr. Chairman, I am pleased to yield 3 minutes to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding time to me.

I rise in opposition to the amendment, Mr. Chairman. I recognize that there is an effort here to make this, as I said, palatable, but it remains indigestible. What we are doing here is we are force-feeding the States, force-feeding consumers this particular format in terms of how transactions and record will be eliminated.

Someone says, the electronic signatures, we are all for it, we can permit that, but we need this because we need to eliminate or give the possibility for people to accept notices and disclosures electronically, that is the only thing. But the heart and soul of most consumer laws are the absolute disclosure provisions. So once we go down this path, we have, for all intents and purposes, circumvented many of the consumer laws of the Federal and many at the State level.

This is not transactions initiated over the Internet, this could be someone at the door that we open the possibility of fraud and abuse to here, because someone at the door, when we get a cooling off period for not purchasing, we would sign it away. There is no assurance that they have Internet; electronic computer equipment or service. It is only one-third of the homes in this Nation have Internet, so these are not even just transactions. We open up that possibility.

We have tried mightily in terms of this particular provision, but we have gone one step forward and two back. The rule of holes is that when you are in a hole and you want to get out, quit digging, but this amendment digs in more. It tries to legitimatize what is inappropriate in this bill.

The fact of the matter is, look at where the consumer is. They are buying a home, they are buying a car. They are blinded by the fact of that new shiny Chevrolet or that wonderful new home that they are going to get. They are signing a whole bundle of papers. In the process of doing it, they sign the copy, disclosure and notification away with no assurance, and all the responsibility put back on the individual consumer on something that may be the most important transaction they make.

This vitiates the truth-in-lending, the real estate State Sales Practices Act. The Federal regulators are already working on the issue of electronic commerce and attempting to interface the rules and e-commerce. Instead of doing something for the consumer, they are taking away the options they have today.

Members are saying that the price of being active in this electronic signature bill and this electronic Internet world is that we are going to deny some of the rights people have today. We basically say, we will let you give up your rights. We should not do that, and we should know that individuals do not have fully informed consent, the mechanics, workers, blue collar workers or others getting minimum wage. They are not sitting in the halls of this Congress, they are not out there walking around in the lobbies, they need our help. Ironically this legislation protects the sophisticated financial institutions and Federal regulators.

We ought to be doing something for the consumer, like providing favorable options for them on privacy in the Internet. We are not doing for them what we did in the Financial Modernization Act. We are doing more harm in this act, with this particular provision and certainly the underlying measure.

When we talk about the provision in the financial modernization, we had balance in that bill. There is no balance in this bill. This policy in this bill is not necessary. These provisions on records are not necessary to make the electronic signature legitimate. We are undercutting consumer law. There is a bandwagon effect here in terms of the special interests that have annealed themselves to this popular electronic signature legislation in order to circumvent the very real decades of consumer law that have protected and serve the consumers and the people we represent. Vote ''no'' on this bill.

Mr. INSLEE. Mr. Chairman, I yield 1½ minutes to the gentlewoman from the Garden State, New Jersey (Mrs. ROUKEMA).

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

Mrs. ROUKEMA. Mr. Chairman, I have to say, as a member of the Committee on Banking and Financial Services, I rise in strong support of the amendment offered by the gentleman from Washington (Mr. INSLEE). I would like to identify myself as a cosponsor of that amendment.

I would also like to take exception to some of the loose rhetoric that I have heard on the floor today, and would like to speak to the specifics.

It seems to me that Congress and the regulators are overdue in playing a leadership role in updating many of the consumer protection laws to reflect the new technologies in electronic commerce that we see out there. This bill and this amendment takes a giant step toward that protection. It does not diminish in any way, as far as I can tell, the protections that consumers already have.

I want to be specific. The amendment is pro-consumer because it provides the additional consumer protections such as a clear, number one, customer opt-in for electronic delivery specifically is required, an opt-in. There are clear requirements on review, retention, and printing of documents and disclosures. Three, the ability of a customer to opt out is there for any customer at any time for the electronic delivery system.

I think that this is, as I said, not only a giant step, but it is also clearly defined, and I dismiss any of the loose rhetoric that acts as though we are taking something away. We are really building not only a firm foundation, but a giant step for consumers in this new electronic age.

Mr. Chairman, as a cosponsor, I rise today in strong support of the Inslee/Eshoo/Dooley/Moran/Roukema amendment. It is both Pro Business and Pro Consumer. It is common sense and will improve the bill.

Millions of consumers today routinely conduct business over the Internet, buying and selling a myriad of products and services from companies large and small, near and far. Many of these consumers engage in financial transactions—investing in stocks and bonds, checking account balances, transferring funds, applying for credit cards, and paying bills without leaving their homes. This explosion of online financial services offers great benefits. Nonetheless, the ability to offer many financial services, particularly loans and mortgages, would be enhanced if the banking laws were amended to clarify the rules governing the electronic delivery of financial services.

H.R. 1714 and the Inslee Amendment will clarify that electronic delivery of required consumer disclosures over the Internet is permissible as long as there are certain safeguards for consumers. This bill does not lessen the rights of consumers to receive required disclosures. In addition, it does not affect the content of any disclosure, including the timing, format and information to be provided. Furthermore, consumers would control which information could be sent to them electronically.

This legislation will assist the growth of online financial transactions and at the same time provide consumer protections. Online disclosures will provide consumers with a number of benefits:

Convenience and time-saving—Consumers can conduct transactions virtually anywhere and at any time, 7-days-a-week, 24-hours-a-day.

User friendly information—Legalistic jargon in on-line disclosure forms can be linked to plain-English definitions, making them much more readable and understandable. Consumers can electronically search documents rather than reading through reams of paper.

Enhanced services for under-served communities—Rural and urban communities will have enhanced access to financial services, even where brick and mortar branches are not available. In areas where residents cannot afford computers, libraries and schools provide on-line access.

Reduced cost—Electronic delivery of disclosures will cost less than providing the same information on paper or paying employees to handle face-to-face disclosures, Competition should encourage business to pass on those savings to consumers.

E-commerce is here. U.S. citizens are spending billions of dollars each year on-line. Congress and the regulators must play a leadership role in updating many of the consumer protection laws to reflect new technologies and establish a coherent legislative framework for the delivery of financial services through electronic commerce. This bill and this amendment takes a giant step toward that protection.

The Inslee/Eshoo/Dooley/Moran/Roukema Amendment includes several provisions from H.R. 2626, the Electronic Disclosures Delivery Act of 1999, which I introduced on September 1st along with Mr. INSLEE and Mr. LAZIO. The Amendment is pro consumer because it provides the additional consumer protections such as clear (1) Customer ''opt in'' for electronic delivery specifically required, (2) clear requirements on review, retention and printing of documents and disclosures, (3) the ability of a Customer to ''opt out'' of electronic delivery at any time.

I thought these were good provisions when I introduced H.R. 2626 with Mr. LAZIO and Mr. INSLEE. I thought they were good provisions when proposed before the Rules Committee, and that is why I cosponsored the Inslee Amendment. I believe the Inslee/Roukema Amendment protects consumers in a rational clearly defined common sense manner. It clearly improves the bill.

We should approve the Amendment and we should approve H.R. 1714.

Mr. CONYERS. Mr. Chairman, I yield 30 second to the gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Chairman, I wonder if the gentlewoman from New Jersey would answer why the chairperson of the Subcommittee on Financial Institutions has had no hearings on the bill that she introduced, and dealing with the impact of this bill and her bill on the consumer protection laws?

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. LAFALCE. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, I will tell the gentleman exactly why; we got a little directed and focused on financial modernization.

Mr. LAFALCE. The gentlewoman was too busy to have hearings on these consumer protections.

Mrs. ROUKEMA. I was the author of the financial privacy and financial modernization. I find this completely consistent.

Mr. INSLEE. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Chairman, I thank the gentleman from Washington (Mr. INSLEE) for yielding time to me.

Mr. Chairman, I am also an original sponsor of this amendment because it clarifies the consumer protections in H.R. 1714. I have been wanting to respond to my friend, the gentleman from California, not because I take issue with his characterization of my remarks as New Democrat in nature, but because he said that I am supporting this bill because it is new and exciting.

That is not why I am supporting this bill. It is because it is responsible and needed. The fact is that this bill provides a consistent and predictable national framework of rules governing the use of electronic signatures. This bill is needed. This bill was and is bipartisan. When the final vote is taken, it will be apparent that it is bipartisan. In fact the vote will be lopsided because it provides consumers and companies doing business on the Internet the legal certainty they need for electronic signatures, until all 50 States pass their own legislation on the legality of electronic signatures.

This amendment is important because it clarifies the consumer protections that were originally inlcuded in this bill. It makes it clear, as the prior speakers have said, that consumers are not required to use or accept electronic records or electronic signatures. There has to be mutual consent, and it expands the bill's requirement that consumers be able to receive and retain electronic records.

Mr. Chairman, this amendment is important because it says that opportunity for consent must be conspicuous and visually separate from all the other terms.

In addition, the consumer must be provided with an explanation of how to access and retain electronic records. Records will be received, retained, and printed. The fact is that consumers are going to be protected, but most importantly, they are going to have a choice. Today they do not have that uniformity, that predictability that comes with uniform national standards.

The Internet is national in nature. Our constituents need this legislation. Make it bipartisan and make it an expression of our unequivocal support for this productive, prosperous new economy.

Mr. CONYERS. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL), the dean of the House and the ranking member of the Committee on Commerce.

Mr. DINGELL. Mr. Chairman, I thank my good friend for yielding time to me.

Mr. Chairman, I want to try and make clear what is at stake here.

There is no objection, I think, on the floor on the part of anyone, my good friend, the gentleman from Michigan, myself, or anybody else, to whether or not the contract is signed electronically. The question relates to notice of later events under that contract which can severely impact the purchaser, such as things which would trigger foreclosure of a mortgage on a house or an automobile, failure to keep up insurance, failure to prevent waste, failure to make payments.

It could happen for many reasons, such as year 2K. It could happen because of the situation which might occur, a hard drive might crash, or there might be any one of a number of other events, including a failure of the Internet provider or something of that sort, or the matter would just get lost in cyberspace.

There is nothing in anything that we are talking about here that would preclude an individual from giving up some right and waiving his right to that notice. But as an attorney of longstanding and as one who has dealt with foreclosures and the hardship that those kinds of events trigger, I think it is important to see to it that some who might not be as smart as some of the Internet whizzes and the computer whizzes and jocks that we have has the capability of protecting himself, because we are talking about things such as the purchase of stock, mortgages on homes, automobile purchases, major purchases of equipment, and things of that kind which could incur enormous obligations on the part of the purchaser.

I propose to support the amendment. It improves the bill. It does not improve the bill by addressing the fundamental, basic question of whether the consumer gets the necessary notices that are required by a long history of State law to apprise him that he is in danger under the contract of losing money or rights.

Mr. INSLEE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just like to specifically note that the underlying bill excludes from its ambit notices of foreclosure, of acceleration of default on the home. Those are specifically excepted and should not be an issue.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. INSLEE. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, I am not talking about notices of foreclosure, I am talking about notices that would trigger foreclosure, notice that the insurance has not been paid, that damage was being committed on the property, that a public nuisance is being committed on the property, or even a notice that the individual has failed to make a payment, which will trigger foreclosure.

Those are the kinds of notices that I am talking about, and they can severely, adversely impact the party.

Mr. INSLEE. Reclaiming my time, those will be given. Those notices will be given. In every case, the consumers electronically, if they want it electronically, and on paper if they want it on paper, those notices shall be given.

Mr. Chairman, I yield 1 minute to the gentleman from from Virginia (Mr. BLILEY).

Mr. BLILEY. Mr. Chairman, I appreciate the gentleman yielding time to me.

Mr. Chairman, I think the gentleman's amendment improves the bill. I support it.

I would also like to point out, as was mentioned in the earlier debate, that what happens if the Y2K problem happens or the computer breaks down, the bill requires that a record sent be able to be retainable, printable, and transferrable. If the Internet is down this standard is not met, and thus, a consumer would not be liable.

I fully support this amendment. I urge its adoption, and I urge adoption of the underlying bill.

Mr. CONYERS. Mr. Chairman, I yield the balance of my time to the gentlewoman from Texas (Ms. JACKSON-LEE), a distinguished member of the Committee on the Judiciary.

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

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished ranking member of the Committee on the Judiciary for yielding time to me.

I thank the Members for their good intentions behind this effort. I happen to be a supporter of electronic commerce. I wish we could have done this in a bipartisan way.

Mr. Chairman, I do rise to support the incremental change that the Inslee amendment makes. It does not answer my concerns, however. I do believe that it is important for the consumers to conspicuously be able to opt in to give consent to know whether or not their business is going to be done in an electronic form, but I think what my good friends are missing and the reason I support the substitute is they are missing the fact that although we can lay out the long list of supporters of this bill, the responsibility of this Congress is to ensure that those voices which cannot be heard, those people needing to have information about the drugs they get out of the Food and Drug Administration, those young couples who are buying homes, still need to have the ability to understand the documents that they are utilizing.

Under the underlying bill, creditors could condition credit on a consumer's consent to receive all disclosures electronically. I do want us to all be hooked up to the Internet, but unfortunately, even as we go into the 21st century, all Americans are not. Can Members imagine being denied credit because they refuse or do not understand that they need to be hooked up to the Internet? Even in credit transactions involving the mortgage, people would have that problem.

Consider the FDA's responsibility to provide people with information about drugs, and those drugs that would conflict with others. Now we have the obligation of written information. Just imagine that that information will now be on the web page, and they leave people to their own devices, and they say, forget about the written materials, just go to the web page that most of those who are in certain levels in our country do not have.

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The substitute, however, would sunset when a state enacted a uniform electronic transactions act which would provide for protections for our consumers.

The substitute also does not affect Federal laws or regulations, but instead gives Federal agencies 6 months to conduct a careful study of barriers to electronic transactions under Federal laws or regulations. The substitute also represents the E-commerce bill that is the most likely to be enacted into law, because it is a combination of Democrats and Republicans, House Members and Senate Members, who have come together.

Mr. Chairman, we are not against electronic commerce. I think that is the point that should be made. I have friends on the other side that I agree with, and friends over here that I agree with. But what my voice must be for are those individuals who do not know the Internet, who do not have access to computers, who are intimidated by some large business telling them they can not get credit or that home that they have been dreaming of because they will not consent to have their business done in an electronic process.

Mr. Chairman, let us make it a bipartisan bill and support the substitute and do the right thing for the American people.

Mr. INSLEE. Mr. Chairman, I yield 15 seconds to the gentleman from Ohio (Mr. KASICH).

Mr. KASICH. Mr. Chairman, I would like to compliment the gentleman from Washington (Mr. INSLEE) for his amendment in terms of clarifying. But one thing we should not be confused about, this Congress nor government should stand in the way of what has been remarkable progress here at end of the 20th century moving into the 21st century. It has done an enormous amount of good for families, not just in America but across the globe. Let us clarify this but not hesitate to invest and have confidence in those people who are really moving us forward and empowering people.

The CHAIRMAN pro tempore (Mr. MILLER of Florida). The question is on the amendment offered by the gentleman from Washington (Mr. INSLEE).

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

RECORDED VOTE

Mr. INSLEE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 418, noes 2, not voting 13, as follows:

[Roll No. 577]

AYES—418

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

NOES—2

Paul	Vento

NOT VOTING—13

Coburn	Largent	Smith (TX)
Condit	Matsui	Spence
Dickey	Meek (FL)	Tiahrt
Gephardt	Pascrell	
Hutchinson	Scarborough	

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Mr. KUCINICH and Mr. WATT of North Carolina changed their vote from ''no'' to ''aye.''

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Stated against:

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Chairman, on rollcall No. 577, I was unavoidably detained. Had I been present, I would have voted ''no.''

The CHAIRMAN pro tempore (Mr. MILLER of Florida). It is now in order to consider amendment No. 2 printed in House Report 106–462.

AMENDMENT NO. 2 IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DINGELL

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

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

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

Amendment No. 2 in the nature of a substitute offered by Mr. DINGELL:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Millennium Digital Commerce Act''.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The growth of electronic commerce and electronic government transactions represent a powerful force for economic growth, consumer choice, improved civic participation and wealth creation.

(2) The promotion of growth in private sector electronic commerce through Federal legislation is in the national interest because that market is globally important to the United States.

(3) A consistent legal foundation, across multiple jurisdictions, for electronic commerce will promote the growth of such transactions, and that such a foundation should be based upon a simple, technology neutral, nonregulatory, and market-based approach.

(4) The Nation and the world stand at the beginning of a large scale transition to an information society which will require innovative legal and policy approaches, and therefore, States can serve the national interest by continuing their proven role as laboratories of innovation for quickly evolving areas of public policy, provided that States also adopt a consistent, reasonable national baseline to eliminate obsolete barriers to electronic commerce such as undue paper and pen requirements, and further, that any such innovation should not unduly burden inter-jurisdictional commerce.

(5) To the extent State laws or regulations do not provide a consistent, reasonable national baseline or in fact create an undue burden to interstate commerce in the important burgeoning area of electronic commerce, the national interest is best served by Federal preemption to the extent necessary to provide such consistent, reasonable national baseline or eliminate said burden, but that absent such lack of a consistent, reasonable national baseline or such undue burdens, the best legal system for electronic commerce will result from continuing experimentation by individual jurisdictions.

(6) With due regard to the fundamental need for a consistent national baseline, each jurisdiction that enacts such laws should have the right to determine the need for any exceptions to protect consumers and maintain consistency with existing related bodies of law within a particular jurisdiction.

(7) Industry has developed several electronic signature technologies for use in electronic transactions, and the public policies of the United States should serve to promote a dynamic marketplace within which these technologies can compete. Consistent with this Act, States should permit the use and development of any authentication technologies that are appropriate as practicable as between private parties and in use with State agencies.

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to permit and encourage the continued expansion of electronic commerce through the operation of free market forces rather than proscriptive governmental mandates and regulations;

(2) to promote public confidence in the validity, integrity and reliability of electronic commerce and online government under Federal law;

(3) to facilitate and promote electronic commerce by clarifying the legal status of electronic records and electronic signatures in the context of contract formation;

(4) to facilitate the ability of private parties engaged in interstate transactions to agree among themselves on the appropriate

electronic signature technologies for their transactions; and

(5) to promote the development of a consistent national legal infrastructure necessary to support of electronic commerce at the Federal and State levels within areas of jurisdiction.

SEC. 4. DEFINITIONS.

In this Act:

(1) ELECTRONIC.—The term ''electronic'' means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) ELECTRONIC AGENT.—The term ''electronic agent'' means a computer program or an electronic or other automated means used to initiate an action or respond to electronic records or performances in whole or in part without review by an individual at the time of the action or response.

(3) ELECTRONIC RECORD.—The term ''electronic record'' means a record created, generated, sent, communicated, received, or stored by electronic means.

(4) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(5) GOVERNMENTAL AGENCY.—The term ''governmental agency'' means an executive, legislative, or judicial agency, department, board, commission, authority, or institution of the Federal Government or of a State or of any county, municipality, or other political subdivision of a State.

(6) RECORD.—The term ''record'' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(7) TRANSACTION.—The term ''transaction'' means an action or set of actions relating to the conduct of commerce, between 2 or more persons, neither of which is the United States Government, a State, or an agency, department, board, commission, authority, or institution of the United States Government or of a State.

(8) UNIFORM ELECTRONIC TRANSACTIONS ACT.—The term ''Uniform Electronic Transactions Act'' means the Uniform Electronic Transactions Act as provided to State legislatures by the National Conference of Commissioners on Uniform State Law in the form or any substantially similar variation.

SEC. 5. INTERSTATE CONTRACT CERTAINTY.

(a) IN GENERAL.—In any commercial transaction affecting interstate commerce, a contract may not be denied legal effect or enforceability solely because an electronic signature or electronic record was used in its formation.

(b) METHODS.—Parties to a transaction are permitted to determine the appropriate electronic signature technologies for their transaction, and the means of implementing such technologies.

(c) PRESENTATION OF CONTRACTS.—Notwithstanding subsection (a), if a law requires that a contract be in writing, the legal effect or enforceability of an electronic record of such contract shall be denied under such law, unless it is delivered to all parties to such contract in a form that—

(1) can be retained by the parties for later reference; and

(2) can be used to prove the terms of the agreement.

(d) SPECIFIC EXCLUSIONS.—The provisions of this section shall not apply to a statute, regulation, or other rule of law governing any of the following:

(1) The Uniform Commercial Code, as in effect in a State, other than section 1–107 and 1–206, article 2, and article 2A.

(2) Premarital agreements, marriage, adoption, divorce or other matters of family law.

(3) Documents of title which are filed of record with a governmental unit until such time that a State or subdivision thereof chooses to accept filings electronically.

(4) Residential landlord-tenant relationships.

(5) The Uniform Health-Care Decisions Act as in effect in a State.

(e) ELECTRONIC AGENTS.—A contract relating to a commercial transaction affecting interstate commerce may not be denied legal effect or enforceability solely because its formation involved—

(1) the interaction of electronic agents of the parties; or

(2) the interaction of an electronic agent of a party and an individual who acts on that individual's own behalf or as an agent, for another person.

(f) INSURANCE.—It is the specific intent of the Congress that this section apply to the business of insurance.

(g) APPLICATION IN UETA STATES.—This section does not apply in any State in which the Uniform Electronic Transactions Act is in effect.

SEC. 6. PRINCIPLES GOVERNING THE USE OF ELECTRONIC SIGNATURES IN INTERNATIONAL TRANSACTIONS.

To the extent practicable, the Federal Government shall observe the following principles in an international context to enable commercial electronic transaction:

(1) Remove paper-based obstacles to electronic transactions by adopting relevant principles from the Model Law on Electronic Commerce adopted in 1996 by the United Nations Commission on International Trade Law (UNCITRAL).

(2) Permit parties to a transaction to determine the appropriate authentication technologies and implementation models for their transactions, with assurance that those technologies and implementation models will be recognized and enforced.

(3) Permit parties to a transaction to have the opportunity to prove in court or other proceedings that their authentication approaches and their transactions are valid.

(4) Take a nondiscriminatory approach to electronic signatures and authentication methods from other jurisdictions.

SEC. 7. STUDY OF LEGAL AND REGULATORY BARRIERS TO ELECTRONIC COMMERCE.

(a) BARRIERS.—Each Federal agency shall, not later than 6 months after the date of enactment of this Act, provide a report to the Director of the Office of Management and Budget and the Secretary of Commerce identifying any provision of law administered by such agency, or any regulations issued by such agency and in effect on the date of enactment of this Act, that may impose a barrier to electronic transactions, or otherwise to the conduct of commerce online or by electronic means. Such barriers include, but are not limited to, barriers imposed by a law or regulation directly or indirectly requiring that signatures, or records of transactions, be accomplished or retained in other than electronic form. In its report, each agency shall identify the barriers among those identified whose removal would require legislative action, and shall indicate agency plans to undertake regulatory action to remove such barriers among those identified as are caused by regulations issued by the agency.

(b) REPORT TO CONGRESS.—The Secretary of Commerce, in consultation with the Director of the Office of Management and Budget, shall, within 18 months after the date of enactment of this Act, and after the consultation required by subsection (c) of this section, report to the Congress concerning—

(1) legislation needed to remove barriers to electronic transactions or otherwise to the conduct of commerce online or by electronic means; and

(2) actions being taken by the Executive Branch and individual Federal agencies to remove such barriers as are caused by agency regulations or policies.

(c) CONSULTATION.—In preparing the report required by this section, the Secretary of Commerce shall consult with the General Services Administration, the National Archives and Records Administration, and the Attorney General concerning matters involving the authenticity of records, their storage and retention, and their usability for law enforcement purposes.

(d) INCLUDE FINDINGS IF NO RECOMMENDATIONS.—If the report required by this section omits recommendations for actions needed to fully remove identified barriers to electronic transactions or to online or electronic commerce, it shall include a finding or findings, including substantial reasons therefore, that such removal is impracticable or would be inconsistent with the implementation or enforcement of applicable laws.

The CHAIRMAN pro tempore. Pursuant to House Resolution 366, the gentleman from Michigan (Mr. DINGELL) and a Member opposed each will control 15 minutes.

The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, I yield myself such time as I may consume.

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

Mr. DINGELL. Mr. Chairman, my old dad taught me to measure twice and cut once. He said that that was better carpentry, and he was right.

□ 1445

This amendment is essentially a bipartisan agreement reached in the Senate between Senators ABRAHAM and LEAHY. It is supported by the administration and it does not bear with it the threat of veto of the legislation without this amendment. It recognizes the validity of electronic signatures and contracts. It stays out of the more complicated questions and controversy associated with electronic records attendant on those contracts. It also avoids the problem of telling the contracting parties exactly what they do.

Here is what the substitute does do. It says a contract may not be denied legal effect or enforceability solely because of electronic signature or an electronic record was used in the formation. It allows parties to the transaction to determine appropriate electronic signature technologies for their transaction. It protects parties by requiring that the electronic record be delivered in the form that can be retained by the parties for later reference, and it can be used to prove the terms of the agreement. It sets forth principles to guide the Federal Government in expanding the use of electronic signatures in international transactions. It requires the Federal Government to study legal and regulatory barriers to electronic contracts.

Now, here is what it does not do. It does not hurt the ability of States to establish safeguards, such as consumer protection laws for electronic commerce. It does not wipe out the ability

of Federal regulators to eliminate abuses that may occur when electronic records are used. It does not wipe out State laws and regulations on the maintenance of records critical to protection of individual rights and claims. It does not preempt State and Federal records signature requirements, including those in tax laws and regulatory statutes.

We do not need to sacrifice consumer protections to facilitate electronic commerce. The concerns that I pointed out earlier are avoided. Electronic commerce will go forward, the parties will define the terms under which they will function, State laws will be protected, consumers will be protected, and entrepreneurs on the Internet will also be protected. And consumers will know that they have the means to protect themselves on terms of contracts in which they enter.

Mr. Chairman, may I inquire as to how much time I have consumed?

The CHAIRMAN pro tempore (Mr. MILLER of Florida). The gentleman from Michigan (Mr. DINGELL) has used 2½ minutes and will have 12½ minutes remaining.

Mr. DINGELL. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN pro tempore. Does the gentleman from Virginia (Mr. BLILEY) seek the time in opposition?

Mr. BLILEY. I do, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from Virginia is recognized for 15 minutes.

Mr. BLILEY. Mr. Chairman, I yield myself 5½ minutes, and I rise in opposition to the substitute offered by the gentleman from Missouri (Mr. GEPHARDT), the gentleman from Michigan (Mr. DINGELL), the gentleman from Michigan (Mr. CONYERS), and the gentleman from New York (Mr. LAFALCE).

Just last week the House leadership and the administration pulled out all the stops to defeat H.R. 1714 when it was considered under suspension. In spite of their opposition, we fell just a few votes shy of a two-thirds majority. Just this past week an amazing conversion has taken place. Not only has the majority leadership stopped opposing electronic signature legislation, but it now supports the concept of providing legal validity to electronic signatures, and even went so far as to introduce a bill, H.R. 3220.

I commend my colleagues for their conversion and for recognizing the importance of this Congress approving electronic signature legislation. Unfortunately, their amendment, as the old saying goes, is a day late and a dollar short. The amendment only provides for electronic signatures on contracts and is, thus, substantially narrower than 1714. The amendment does not provide for the use or acceptance of electronic records, such as warranties, notices of or disclosures in electronic form.

The offerers of this amendment have leveled charges that the inclusion of records in H.R. 1714 would bring harm to consumers. Such a charge is completely false. H.R. 1714 contains important provisions protecting consumers who choose to accept an electronic document. This makes H.R. 1714 a broader bill, covering a wide range of electronic commerce transactions. Indeed, we just passed an amendment to improve this bill dealing with records by a vote of 418 to 2. Why would we want to strike the provision now?

Coupled with the records provision in H.R. 1714 are key consumer protections. In short, the key consumer protections are an opt-in system for consumers who want to accept electronic documents; standards to ensure that electronic documents are accurate and can be printed for use for future reference, and a requirement that key notices, such as termination of a utility service, cancellation of health insurance or life insurance, and foreclosure or eviction must still be delivered in writing.

The amendment before us also fails to address the need for uniformity in electronic signature laws. Currently, Mr. Chairman, 44 States have enacted some sort of electronic signature law. However, all 44 are different and many are inconsistent. With such a patchwork of differing laws, electronic commerce is nearly impossible. This amendment will only perpetuate that patchwork of laws by allowing States to enact any law, any law, regulating electronic signatures, no matter how nonuniform or how inconsistent with the laws of other States.

In contrast, H.R. 1714 allows States to enact a uniform electronic signature law provided that it meets minimum standards consistent with promoting electronic commerce. Two of the key principles are that State laws must be technology neutral and that States cannot limit the offering of electronic signature services to specific types of businesses. H.R. 1714 will encourage States to enact uniform laws while ensuring that States do not inhibit interstate commerce.

In addition, the amendment does not fully address the concerns I have about the use and acceptance of electronic signatures internationally. As other speakers have pointed out, some nations have enacted or are proposing electronic signature legislation that would be harmful to American interests. Title II of H.R. 1714 provides guidance to the Secretary of Commerce to work against any barriers to promote American principles in this area.

I would also like to point out that H.R. 1714 has been the subject of long and substantial negotiations with the minority. Prior to its consideration at the subcommittee and full committee level, we engaged in lengthy negotiations with the minority. The substitute amendments offered in committee by the gentleman from Ohio (Mr. OXLEY), the gentleman from Louisiana (Mr. TAUZIN), and myself contain important provisions that enjoyed bipartisan support. In fact, H.R. 1714 was approved through two subcommittees and the full committee by a voice vote.

We are also hearing that we should support this amendment because it is identical to the compromise legislation that has been agreed to in the other body. First, if such a compromise has been reached, it certainly has not been cleared for floor consideration. I think it is premature to refer to this as the so-called compromise until it is voted on and approved by the full committee of the other body.

Second, I am surprised to hear my colleagues say that we should merely accept the work of the other body without thoroughly considering this issue in the House. We should not blindly accept any legislation merely because the other body has supposedly reached a compromise on the text of a bill.

I am pleased to see that many of my colleagues from across the aisle have seen the light and decided to support rather than oppose electronic signature legislation. Unfortunately, their amendment falls far short of what is needed to promote electronic commerce.

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

Mr. DINGELL. Mr. Chairman, I yield 2 minutes to the gentleman from New York (Mr. LAFALCE).

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

Mr. LAFALCE. Mr. Chairman, I do not believe there is a representative in this body who does not favor electronic signatures. That is not the issue before us. The issue before us is should we pass Federal legislation that, A, preempts consumer rights; and, B, preempts States rights. I think the answer to that is no.

So there is another question. Why not this substitute? Why not this substitute that the administration favors, that is the agreed-upon compromise at least between Senator ABRAHAM, the chairman of the relevant Judiciary Subcommittee in the Senate, and Senator WYDEN and Senator LEAHY?

With respect to consumer rights, every consumer group believes that we must pass this substitute in order to keep the consumer protections that are presently in existing law. Industry, the Microsofts, the Yahoos of this world, would embrace the substitute if it were to be before the President for his signature. It is just that if they can get a better bill that preempts consumer rights, why not?

I remember when I first studied law, the Uniform Commercial Code was to be adopted by the States. Nobody suggested that because contracts are interstate in nature there should be a Federal law preempting the ability of States to adopt the Uniform Commercial Code sometime, with a little change here or a little change there, and that is how it has evolved.

The present bill that is before us would preempt any State law unless it

is fully consistent with the Federal bill. In other words, it preempts it totally. The substitute would pass this legislation, protect the consumer, but also protect the abilities to enact consumer protections that might be even greater. I think that is something we want to preserve.

We will get the signature of the President on the substitute. It is probably going to be the virtual identical bill that passes the Senate. Why not vote for this substitute, get a law, and get the law passed immediately?

Mr. OXLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Utah (Mr. CANNON).

Mr. CANNON. Mr. Chairman, I rise in opposition to the substitute. I do not support the substitute because it fails to simplify, clarify, and modernize the law governing electronic commerce. It fails to promote uniformity of law among the States, and it fails to advance American interests worldwide by promoting a uniform legal regime addressing the use of electronic and similar technological means of effecting and performing commercial and governmental transactions.

The substitute will not accomplish what should be the basic objective of any legislation on this subject; that is, bringing legal certainty to electronic transactions in commerce. The substitute fails in this regard because, instead of promoting uniformity of law among the States, it will lead to the balkanization of applicable law. This will lead to greater uncertainty.

Balkanization will occur because, even with its most narrow scope, the substitute does not apply to States where the Uniform Electronic Transactions Act, UETA, is adopted in whole or any substantially similar variation. Between Section 3(b)(5) of UETA, which permits a State to exclude any of its laws from the application of UETA, and the substitute's substantially similar variation language, a State is completely free to institute its own electronic commerce laws regardless of such laws' effect on interstate commerce.

That is exactly what happened in California, the first State to adopt UETA. Relying on Section 3(b)(5) of the UETA, better known in some circles UETA's black hole, California excluded many laws from the application of UETA's principles. Those laws include most sections of the following California codes: Uniform Commercial Code, the Business and Professions Code, the Civil Code, the Financial Code, the Insurance Code, Public Utilities Code, and the Vehicle Code.

If every State was to take California's approach, the effect would be to further remove legal certainty. Rather, 50 separate legal regimes may arise governing electronic transactions in commerce. This outcome is counterproductive and unacceptable. I therefore urge my colleagues on both sides of the aisle to vote ''no'' on the substitute.

Mr. CONYERS. Mr. Chairman, I yield myself 2 minutes.

My colleagues, this substitute is just what we need. It has come not a moment too soon, because I think we can now bring a marriage to the rights of consumers and the high-tech necessities of e-signature. It satisfies the need of the high-tech community by recognizing the validity of the electronic signatures in contracts, but it does not go as far as the base bill in getting into the controversial issue of other electronic records that might arise from electronic contract formation.

□ 1500

In other words, this steers a midcourse. It has a counterpart in the United States Senate. And it also has the assurance that the President will sign it into law.

So I am asking my colleagues, please, if we are supporting e-signatures and want to move high tech forward, here is the substitute that we can do this by.

The substitute deals only with the formation of electronic contracts and not other types of records. It does not undermine the important consumer protection laws. For example, regulations implementing the Truth in Lending Act require creditors to provide consumers with periodic statements that include information essential to a consumer in managing a credit card account.

Now, this cannot be accomplished unless we have the substitute. Creditors could request on a consumer's consent to receive all disclosures electronically under H.R. 1714. That is exactly what we are trying to make the distinction between the substitute and the base bill. Please support this substitute.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Louisiana (Mr. TAUZIN).

Mr. TAUZIN. Mr. Chairman, I thank the gentleman for yielding me the time. I rise in opposition to this substitute.

Mr. Chairman, members of the committee, the substitute, if adopted, will rob this body of one of its rare opportunities to do good not only by our generation of Americans but by generations yet unborn.

We are about to enter a new millennium that, in large measure, is going to be governed by the enormous possibilities of not only the current Internet as we know it but as broadband, high-speed, always-on, always-available, supercontent-rich, broadband Internet services that are going to merge with television and provide us with new means of communicating and entertaining ourselves and indeed conducting electronic commerce across the span of the globe. It is going to make a smaller world and make possible enormous opportunity for citizens of this country and citizens of the word.

But in order for that to flourish, the legal rules that are to govern electronic commerce ought to be made clear. The bill does that.

The problem with the substitute is that it limits the bill only to those matters dealing with the formation of an electronic contract.

Now, in the earlier discussions, I tried to point out to my colleagues that many things that happen in electronic commerce do not involve the formation of a contract. The best example is when we write a check and that check has to be physically delivered by the bank to the bank of the recipient to whom we are sending the money. Just the physical transfer of all those checks, all that paperwork, costs consumers in America $4 billion a year just moving that paper around.

The substitute would do nothing to provide for digital signature in the electronic commerce of transferring money around in the form of payments and checks.

I urge that this substitute be defeated and we stick with the main body of the bill.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York (Mr. WEINER), a member of the Committee on the Judiciary.

Mr. WEINER. Mr. Chairman, I rise in support of the amendment and the substitute being offered by the gentleman from Michigan (Mr. DINGELL) and the gentleman from Michigan (Mr. CONYERS) and others. I would appeal to my colleagues on perhaps a different level than this issue has been debated for some time.

We still have relatively small numbers of American citizens participating in Internet commerce, but that number continues to rise almost exponentially each year. And the reason for that rise in participation in the Internet commerce world is people are developing more confidence. Each time they go make a purchase and they get their product and their credit card number is not stolen and their information not shopped around, people are more likely to come back in future years to partake in that activity again.

That is why it is so absolutely important during this period when Internet commerce is growing that we do everything we can to reassure consumers and reassure those in the States that when they pass laws that they are going to be protected. The substitute adheres to the most stringent consumer protection while still allowing digital signatures.

For those of my colleagues who are like me who on some level do believe that the banking community and the insurance and financial services community should have easier access to this world, I believe we have to do this in a thoughtful way while preserving consumers' rights and, of course, while preserving the rights of States and localities to do what they need to do to reassure those who do partake in the Internet commerce that they will be safe in doing so.

The substitute does that. It does not jeopardize the basic things that the sponsor of the bill would like to do. I urge a yes vote on the substitute.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. OXLEY).

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

Mr. OXLEY. Mr. Chairman, I rise in opposition to the substitute offered by my good friend, the gentleman from Michigan (Mr. DINGELL).

As I said in my statement in supporting the underlying bill, we will do irreparable harm to the future of electronic commerce if we are unable to provide the basis for uniformity and legal certainty. And, indeed, that is really what this legislation is all about.

Those of us who study law understood that the Uniform Commercial Code really for the first time turned loose this great engine of economic opportunity and contracts throughout our 50 States when we had some degree of certainty when we are dealing with the Uniform Commercial Code.

In many ways, this legislation sponsored by our good friend, the chairman of the Committee on Commerce, is a natural consequence of following along with the Uniform Commercial Code, but we are doing it as it relates to electronic commerce. Electronic commerce is that natural consequence of what we are doing. So, essentially, that is really what this bill is all about.

The substitute amendment only provides legal certainty if the transaction was conducted as a result of a contract. And indeed, a lot of commerce takes place without formal contracts. And that is what really this legislation is all about.

This substitute, I would tell my good friend from Michigan, is over regulatory, it is industrial policy legislation that is contrary to what electronic commerce is really all about.

Mr. Chairman, the substitute amendment is simply a failure in regards to trusting people who are becoming more and more sophisticated in dealing with electronic commerce and more and more feeling comfortable with what is happening out there in the marketplace. This would be a huge step backwards in the name of consumer protection, when in fact it is quite the opposite and trusts government and trusts regulations and trusts bureaucrats far more than we trust the consumer in making these very important decisions in the marketplace.

So, for that reason, I would ask the substitute be defeated.

Mr. DINGELL. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York (Mr. LAFALCE).

Mr. LAFALCE. Mr. Chairman, the gentleman from Ohio (Mr. OXLEY) made reference to the Uniform Commercial Code bringing uniformity. I point out that it was not by Federal legislation; it was by the adoption of the individual States. We retain States' rights.

There is such a thing as the Uniform Electronic Transactions Act. The National Conference of State Legislators wants the individual States to adopt that.

Now the issue is not whether we should adopt UETA on a Federal level, because we are not doing that. We are adopting it with some changes here, some changes there. What changes are we making? Those that don't benefit the consumers.

We are also saying to the States that they can pass whatever law they want, but it cannot in any way be inconsistent with what we pass, which is not the UETA.

Support the substitute. Defeat the main bill. Because if it goes before the President for his signature as it is before the House right now, it will be vetoed. The substitute will be signed.

Mr. BLILEY. Mr. Chairman, I reserve the balance of my time.

Mr. DINGELL. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, this bill in its original form passed from the Committee on Commerce unanimously. Now, what happened between now and then is really very interesting. The bill has been changed. The Members on the minority side consulted extensively with our good friend, the chairman of the committee, and we were negotiating with him; and there were a number of agreements made to change the bill to make it still more acceptable and more workable.

But then something funny happened on the way to the floor. The distinguished gentleman from Virginia, or somebody else, all of a sudden decided they are going to put the bill on the floor, and they decided they were going to terminate the negotiations without any notice to the minority.

They then took the step of making some significant changes in the bill. It is not the bill that came out of the Committee on Commerce to which the minority objects. We will be happy to vote for that right this minute. But what we are confronted with here is the unfortunate situation where our dear friends on the majority side have changed the bill with no notice, and it is quite different than the original bill.

Now, what is the basic objection to the bill? Let us try and understand to what does the minority really object.

The minority objects not to the idea that we should authorize under law a uniform system of recognizing the electronic signature of contracts. What is objected to here is something quite different, and that is that all of the matters which are associated with the contract and with contracting are with one swoop of the pen or one click of the computer changed so that they immediately go into force and that no right on the part of the individual who contracts remains intact after the original electronic signature has taken place.

Now, what can happen? A number of matters of notice come electronically. They are not in hard copy and in writing. The right of the contracting parties to say but certain other things have to be under signature and on paper in the conventional fashion as required by existing State law and by even things going back to common law and ordinary business practices and transactions are no longer permitted. Those are done once they have made the initial electronic contracts by a further electronic transaction.

Now, what is wrong with that? First of all, the hard drive may crash. Second of all, the Y2K bug may strike. Third of all, these notices may get lost in cyberspace. The individual may do a bad job of notifying the other party of an address change. Or the computer may crash. Or any of many things may transpire. The parties cannot even agree to these questions amongst themselves. That is wrong.

If we want to go forward, let us proceed and go forward on the bill that was adopted by the Committee on Commerce. Let us adopt this, which allows everything that the original legislation would have done and which was supported by both sides, majority and minority. Let us proceed in that fashion.

I see no benefit to moving forward with a bill which is so strongly objected to, which is not in the Senate language, and which is threatened with a veto by the President.

All I am suggesting is that they listen to the words of my old dad. When we are going to make this size of massive change, do it sensibly. Know what we are accomplishing. As my dad used to warn me when I was doing carpentry, he would say, ''Measure twice. Cut once. Be careful.''

That is what I am suggesting to this body. Measure twice. Cut once. Adopt the amendment. Get the bill signed. And then let us proceed forward to such other matters as may be required.

Mr. BLILEY. Mr. Chairman, how much time do I have remaining?

The CHAIRMAN pro tempore (Mr. MILLER of Florida). The gentleman from Virginia (Mr. BLILEY) has 3½ minutes remaining, and the gentleman from Michigan (Mr. DINGELL) has 2½ minutes remaining.

Mr. BLILEY. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Chairman, I rise in opposition to the substitute. Again, with great respect to the ranking member from the other side, I rise in opposition.

I do so because the substitute fails in its own objective of eliminating barriers to electronic commerce by recognizing the validity of electronic signatures and contracts.

The fact is that the substitute does very little to remove barriers that result from the legal uncertainty associated with electronic signatures and contracts.

Actually, the substitute further exacerbates the uncertainty associated with the legal effect and enforceability

of electronic mediums such as electronic contracts, agreements, signatures, and records.

□ 1515

Under the substitute, electronic signatures and records will enjoy legal effect and enforceability only if they are used in the formation of an electronic contract. Thus, an electronic signature or record is not accorded legal validity unless used in the context of contract formation. The net positive effect of the substitute on e-commerce is minimal at best. Moreover, as the substitute enables a State to exclude any of its laws from the application of the substitute's rule, even that minimal positive effect is at risk of further diminishment. Still another disconcerting fact is that permitting a State to exclude any or all of its laws, the substitute actually undermines the growth of electronic commerce by exacerbating uncertainty by codifying that uncertainty in Federal law.

The simple fact is that the substitute fails to facilitate and promote electronic commerce by validating and authorizing the use of electronic contracts, agreements, records and signatures. And resultantly, it fails to promote public confidence in the validity, integrity and reliability of electronic commerce. H.R. 3220 may actually hinder the development of legal and business infrastructure necessary to implement electronic commerce and therefore retard growth in e-commerce.

Mr. Chairman, I rise in support of the underlying bill and in opposition to the substitute.

Mr. DINGELL. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I have here a Floor Alert from the National Conference of State Legislatures, Office of State-Federal Relations, in which they point out that the substitute offered by my friends and colleagues and me will accomplish the purposes of ensuring the proper recognition of electronic signatures without trampling on the rights of consumers and without engaging in the completion of legislation which will be opposed and vetoed by the administration.

Our proposal here is fair. There is no significant trampling on State laws. There is a piece of legislation which will be accepted by the administration and which will protect the rights of consumers. Messages which would be transported in cyberspace and perhaps lost to the detriment of consumers who might find as a result of that foreclosures of mortgages and other hurtful actions by the seller will not be occurring.

I think this is a sensible way to proceed. Let us know what we are doing. We embarked upon this process in the idea that we would have a bill which would approve electronic signatures. The original committee bill did that. Declarations were festooned upon the committee bill. This amendment gives all of the rights to the parties that they want. An individual to that contract may waive contract rights to carry the matter more far and further forward, but this proposal that we confront and seek to amend will impose upon innocent persons conditions which will only be understood by lawyers and experts in electronic matters.

Be fair to your constituents and to the people. Allow them to proceed slowly into the time of cyberspace. Do not put them at risk because all of a sudden they are going to find to their vast surprise, somewhere hidden in a contract which they had signed electronically are a waiver of a whole plethora of rights that are very important to them.

Accept the amendment. Vote for it. And in failing that, reject the bill. It is not in the interests of your constituents.

Mr. BLILEY. Mr. Chairman, I yield myself the balance of my time.

I again rise in opposition to this amendment. Records are important to add to this, it is voluntary, and we have been into that over and over.

In addition to that, what this amendment would do would be to allow States to enact any kind of legislation they want on this subject, and 44 States have already acted. There is a wide variety of difference between the 44 States. The one thing about electronic commerce, it is certainly interstate commerce and that has always been reserved to the Congress.

I would hope that we would reject this amendment and adopt the underlying bill. I would like to point out that the gentleman from Michigan (Mr. CONYERS) is a cosponsor of H.R. 2626, a bill that allows electronic delivery of consumer disclosures under a variety of banking laws, including the Truth-in-Lending Act, the Equal Credit Opportunity Act, the Fair Credit Reporting Act, the Real Estate Settlement Act, and yet we have the gentleman opposing the inclusion of records in H.R. 1714. Passing strange.

I urge the defeat of this amendment and the adoption of the underlying bill.

The CHAIRMAN pro tempore (Mr. LATOURETTE). The question is on the amendment in the nature of a substitute offered by the gentleman from Michigan (Mr. DINGELL).

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

RECORDED VOTE

Mr. DINGELL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 126, noes 278, not voting 29, as follows:

[Roll No. 578]

AYES—126

Abercrombie	Becerra	Capps
Ackerman	Berman	Capuano
Allen	Blagojevich	Cardin
Andrews	Bonior	Clayton
Baldacci	Borski	Clyburn
Baldwin	Brady (PA)	Conyers
Barrett (WI)	Brown (OH)	Costello
Coyne	Klink	Phelps
Danner	Kucinich	Pomeroy
DeFazio	LaFalce	Rahall
DeGette	Lampson	Rangel
Delahunt	Lantos	Reyes
DeLauro	Lee	Rivers
Dicks	Levin	Rothman
Dingell	Lewis (GA)	Roybal-Allard
Dixon	Lipinski	Rush
Doyle	Lowey	Sabo
Duncan	Luther	Sanders
Edwards	Maloney (NY)	Sawyer
Engel	Markey	Schakowsky
Eshoo	Martinez	Scott
Evans	Mascara	Serrano
Farr	McCarthy (MO)	Slaughter
Fattah	McDermott	Smith (MI)
Filner	McGovern	Spratt
Frank (MA)	McKinney	Stark
Green (TX)	McNulty	Strickland
Gutierrez	Meehan	Stupak
Hall (OH)	Menendez	Tierney
Hastings (FL)	Miller, George	Towns
Hilliard	Mink	Turner
Hinchey	Moakley	Velazquez
Hinojosa	Mollohan	Vento
Hoeffel	Nadler	Visclosky
Hoyer	Neal	Waters
Jackson (IL)	Oberstar	Watt (NC)
Kanjorski	Obey	Waxman
Kaptur	Olver	Weiner
Kennedy	Ortiz	Wexler
Kildee	Pallone	Wise
Kilpatrick	Pastor	Woolsey
Kleczka	Paul	Wynn

NOES—278

Aderholt	Deal	Houghton
Archer	DeLay	Hulshof
Armey	DeMint	Hunter
Bachus	Deutsch	Hyde
Baird	Diaz-Balart	Inslee
Baker	Doggett	Isakson
Ballenger	Dooley	Istook
Barcia	Doolittle	Jenkins
Barr	Dreier	John
Barrett (NE)	Dunn	Johnson (CT)
Bartlett	Ehlers	Johnson, Sam
Barton	Ehrlich	Jones (NC)
Bass	Emerson	Kasich
Bateman	English	Kelly
Bentsen	Etheridge	Kind (WI)
Bereuter	Everett	Kingston
Berkley	Ewing	Knollenberg
Biggert	Fletcher	Kolbe
Bilbray	Foley	Kuykendall
Bilirakis	Forbes	LaHood
Bishop	Ford	Larson
Bliley	Fossella	Latham
Blumenauer	Fowler	LaTourette
Blunt	Franks (NJ)	Lazio
Boehlert	Frelinghuysen	Leach
Boehner	Frost	Lewis (CA)
Bonilla	Gallegly	Lewis (KY)
Bono	Ganske	Linder
Boswell	Gejdenson	LoBiondo
Boucher	Gekas	Lofgren
Boyd	Gibbons	Lucas (KY)
Brady (TX)	Gilchrest	Lucas (OK)
Brown (FL)	Gillmor	Maloney (CT)
Bryant	Gilman	Manzullo
Burr	Gonzalez	McCarthy (NY)
Burton	Goode	McCollum
Buyer	Goodlatte	McCrery
Callahan	Goodling	McHugh
Calvert	Gordon	McInnis
Camp	Goss	McIntosh
Campbell	Graham	McIntyre
Canady	Granger	McKeon
Cannon	Green (WI)	Metcalf
Castle	Greenwood	Mica
Chabot	Gutknecht	Miller (FL)
Chambliss	Hall (TX)	Miller, Gary
Chenoweth-Hage	Hansen	Minge
Clement	Hastings (WA)	Moore
Coble	Hayes	Moran (KS)
Collins	Hayworth	Moran (VA)
Combest	Hefley	Murtha
Condit	Herger	Myrick
Cook	Hill (IN)	Napolitano
Cooksey	Hill (MT)	Nethercutt
Cox	Hilleary	Ney
Cramer	Hobson	Northup
Crane	Hoekstra	Norwood
Crowley	Holden	Nussle
Cubin	Holt	Ose
Cunningham	Hooley	Oxley
Davis (FL)	Horn	Packard
Davis (VA)	Hostettler	Pease

Pelosi	Schaffer	Taylor (NC)
Peterson (MN)	Sensenbrenner	Terry
Peterson (PA)	Sessions	Thomas
Petri	Shadegg	Thompson (CA)
Pickering	Shaw	Thornberry
Pickett	Shays	Thune
Pitts	Sherman	Thurman
Pombo	Sherwood	Tiahrt
Porter	Shimkus	Toomey
Portman	Shows	Traficant
Price (NC)	Shuster	Udall (CO)
Pryce (OH)	Simpson	Udall (NM)
Quinn	Sisisky	Upton
Radanovich	Skeen	Vitter
Ramstad	Skelton	Walden
Regula	Smith (NJ)	Walsh
Reynolds	Smith (WA)	Wamp
Riley	Souder	Watkins
Roemer	Spence	Watts (OK)
Rogers	Stabenow	Weldon (FL)
Rohrabacher	Stearns	Weldon (PA)
Ros-Lehtinen	Stenholm	Weller
Roukema	Stump	Weygand
Royce	Sununu	Whitfield
Ryan (WI)	Sweeney	Wicker
Ryun (KS)	Talent	Wilson
Salmon	Tancredo	Wolf
Sanchez	Tanner	Wu
Sandlin	Tauscher	Young (AK)
Sanford	Tauzin	Young (FL)
Saxton	Taylor (MS)	

NOT VOTING—29

Berry	Jefferson	Owens
Carson	Johnson, E. B.	Pascrell
Clay	Jones (OH)	Payne
Coburn	King (NY)	Rodriguez
Cummings	Largent	Rogan
Davis (IL)	Matsui	Scarborough
Dickey	Meek (FL)	Smith (TX)
Gephardt	Meeks (NY)	Snyder
Hutchinson	Millender-McDonald	Thompson (MS)
Jackson-Lee (TX)	Morella	

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Messrs. REGULA, WEYGAND, GEJDENSON, SCHAFFER, SHOWS, and HEFLEY, Mrs. CHENOWETH-HAGE, and Mrs. THURMAN changed their vote from ''aye'' to ''no.''

Mr. WEXLER and Mr. SPRATT changed their vote from ''no'' to ''aye.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. BERRY. Mr. Speaker, I was unavoidably detained for rollcall vote 578. Had I been present, I would had voted ''yes'' on rollcall vote number 578.

Stated against:

Mr. ROGAN. Mr. Chairman, on rollcall No. 578, I was attending the Little Rock Nine Congressional Medal of Honor Ceremony at the White House. Had I been present, I would have voted ''no.''

The CHAIRMAN pro tempore. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN pro tempore. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. LATOURETTE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1714) to facilitate the use of electronic records and signatures in interstate or foreign commerce, pursuant to House Resolution 366, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

The SPEAKER pro tempore. The question is on the passage of the bill.

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

Mr. LAFALCE. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on passage of the bill are postponed until later today.

CONFERENCE REPORT ON H.R. 1555, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2000

Mr. GOSS. Mr. Speaker, pursuant to the unanimous consent agreement of earlier today, I call up the conference report on the House bill (H.R. 1555) to authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. LATOURETTE). Pursuant to the order of the House of today, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of Friday, November 5, 1999, at page H. 11630).

The SPEAKER pro tempore. The gentleman from Florida (Mr. GOSS) and the gentleman from California (Mr. DIXON) each will control 30 minutes.

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

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

Mr. Speaker, I obviously rise in strong support of the conference report to accompany H.R. 1555, the Intelligence Authorization Act for Fiscal Year 2000.

Mr. Speaker, in H.R. 1555 we begin the funding for the intelligence community of the next millennium. That, Mr. Speaker, is a most useful perspective for what we have tried to do in our conference report. How can we adapt the tools and skills of the Cold War to meet the challenges of the 21st century? These are new times. We need new ways to approach them.

Underlying that question is how, and in some cases whether, we plan to meet those challenges. How we define our interests, Mr. Speaker, will depend on how we define ourselves. What kind of country will we be in the next century? In 2020, when my grandchildren are grown, what will the American flag mean to them and to people around the world?

In the classified schedule of authorizations in our conference report, we frame a preliminary answer to these questions. In that report, Mr. Speaker, we bring forward the basic tools and skills of the Cold War to bear on the new threats of the next century: the international drug cartels that bring poison into our cities, the elusive conspiracies that put the pieces of nuclear weapons into the hands of rogue leaders, and the shadowy networks that want to bomb our buildings overseas and here at home.

We will also need to use these tools and skills to meet new and unanticipated challenges that will arise in the coming years. Synthetic pharmaceuticals, genetic terrorists? I cannot know what threats will face my grandchildren in the year 2020 as Americans, but I can tell the Members what intelligence tools and skills will be necessary to meet those threats.

That is our job. We may not know the who, In other words, but we clearly know the how. We have learned that, and now we have to provide for it. In our conference report, Mr. Speaker, we continue to focus on this, how we will meet the threats and the challenges of the future, which is indeed upon us.

We will need more human intelligence or HUMINT, as we call it. Over the past year we have had to understand and to act upon crises in Belgrade, Nairobi, Dar es Salaam, East Timor, southern Colombia, and a whole host of other hard-to-pronounce places. In each case, policymakers need more HUMINT on the plans and the intentions of the rogue leaders, dissidents, terrorists, guerillas, and traffickers involved in these crises.

Where will the crises of the year 2000 arise, Kabul, Kinshasa, Lagos? I do not know, but they will be out there, and wherever they do arise our policymakers will need intelligence officers on the ground to collect HUMINT on the plans and intentions of those involved.

For that reason, Mr. Speaker, our conference report continues the rebuilding of our HUMINT capabilities around the world. No surprises is the right way to go.

We will continue to need signals intelligence, or SIGINT, as it is called. As in the past, our ability to collect SIGINT has helped to protect our shores from cocaine and our citizens from terrorists. That ability, however, is threatened in a fundamental way by digital technologies.

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For that reason, Mr. Speaker, our conference report continues the recapitalization of our SIGINT capability.

This is a huge undertaking and an extraordinarily significant one.

We must improve the processing of imagery intelligence, or IMINT as it is called. Our ability to collect imagery has accelerated at lightning speed, but our ability to process imagery remains at a crawl. Collection and processing, however, are two halves of one whole. They must work together.

At present, the combination of collection and processing and imagery is a Ferrari welded to a Ford Falcon. That combination simply will not drive our IMINT capability in 2020. And for that reason, Mr. Speaker, our conference report challenges the Intelligence Community to invest more in its ability to process imagery. It does no good to have the pictures if we do not have analysts to review them.

We must rebuild our covert action capability. The rise of rogue leaders and regional conflicts has demonstrated once again that the President must have an option between the use of F–16s and doing nothing. The President must have, whenever appropriate, the ability to influence an adversary through the various forms of covert action, properly oversighted, of course.

For that reason, Mr. Speaker, our conference report provides additional funding for development of the Intelligence Community's covert action capabilities.

Rebuilding and refining our HUMINT, our SIGINT, our IMINT, and our covert action capabilities are central to the conference report accompanying H.R. 1555. In addition, we address legislatively a number of specific issues that have arisen with regard to the use and the oversight of these capabilities.

In section 309 of our conference report, we direct the National Security Agency, the NSA, to report in detail on the legal standards that it employs for the interception of communications. I can report, notwithstanding this provision, that the committee has substantial insight into the action of the NSA and the guidance of its legal staff. I have thus far no reason to believe that the NSA is not scrupulous in following the Constitution and the laws conducting its SIGINT mission. However, our job is oversight and we take it seriously.

In section 311 of our conference report, we require that the Director of Central Intelligence report to Congress on any involvement of U.S. intelligence agencies in the abuses of the Pinochet regime in Chile. In response to public and Congressional interest, I have introduced legislation with Senator MOYNIHAN that would coordinate and expedite the gathering and dissemination of such information. The story of U.S. intelligence in Chile, whether good or bad, inspiring or embarrassing, is part of American history. Such stories should, to the extent possible, be provided to the American people. I am hopeful that Senator MOYNIHAN and I have introduced the means to make that happen, and I believe we have.

Finally, in title VIII of our conference report, we provide the President with an important new tool against the menace of foreign drug lords who poison our cities. In title VIII, called ''The Foreign Narcotics Kingpin Designation Act,'' the President and the Secretary of Treasury may publicly identify foreign drug lords and block their transactions and assets. Title VIII extends an executive order against Colombian drug lords to include all foreign drug lords. It provides the President with a new way to use intelligence in the war on drugs. It is long overdue. It is a tried and tested measure. It works and we need to use it.

Mr. Speaker, only through a cooperative, bipartisan effort could our committee have addressed so wide a range of authorizations and legislative provisions in this conference report, and also, incidentally, with such a good professional staff as we have.

The ideas and counsel of the gentleman from California (Mr. DIXON), our ranking member, form a major part of this report. It draws as well on the considerable expertise of the Democratic staff of this committee. And I am pleased to say our committee in my view works on a very close, bipartisan, cooperative basis and the results of that are evident to all.

Our work together on this conference report is a part of an annual demonstration that partisanship, like beepers and cell phones, actually get checked at the outer door of our committee before Members can come into our committee's spaces.

In sum, Mr. Speaker, I rise in support of a strong bipartisan conference report that provides funding and direction for the Intelligence Community of the next millennium. It also provides legislation that addresses oversight issues and expands the use of intelligence in the war on drugs. I urge Members to support this conference.

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

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

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

Mr. DIXON. Mr. Speaker, I rise to support the conference report. First of all, let me congratulate the gentleman from Florida (Chairman GOSS), the chairman of our committee, because I think many times not only I, but the staff and other Members thought that we would never reach the floor today. It was due to his diligence and the staff's diligence that we are here today with what I think is a fine conference report.

I also would like to thank John Millis and his staff and Mike Sheehy, our minority counsel, and our staff for working in a very cooperative manner. There is one gentleman on the majority staff who is not present today and that is Tim Sample. That is because his father, Robert Sample, passed away recently. But Tim has done an outstanding job for us, and I know the House extends its sympathy to Tim Sample and his family.

Mr. Chairman, I would like to make special mention of two issues addressed in the conference report. Recently, the National Reconnaissance Office announced the award of a contract to produce the next generation of imagery satellites. These devices will vastly increase the amount of imagery which can be collected. Collection, however, is not the only element in the production of imagery intelligence. Equally important are the elements of tasking, processing, exploitation and dissemination, known collectively as TPED.

Mr. Speaker, to shortchange TPED is to guarantee that the benefit of investments in collection systems will never be fully realized. The imbalance between TPED and collection is now at a critical stage, not because its consequences will be felt in the next month, but because there is no evidence that the executive branch is serious about addressing it adequately in the next few budget submissions.

The conferees agreed to report language which I think is strong and makes clear if the administration cannot budget appropriately for TPED, the scale of the collection system should be modified. There is adequate time in which to assess the resolve of the executive branch on this matter, but in my judgment we are long past the point where we can merely exhort the leadership in the defense and intelligence agencies to bring collection and TPED into balance. The report language is intended to be helpful, but there should be no mistaking the frustration of the conferees with past efforts to achieve realistic budget submissions on this matter.

Mr. Speaker, last week the House adopted overwhelmingly the so-called drug kingpin legislation which would be used to identify foreign individuals and entities that play a significant role in international narcotics trafficking. The bill also provides for the blocking of access to the assets in the United States of those individuals and entities, as well as the assets of those who assist or provide financial or technical support to them.

That legislation is contained in this conference report in place of an amendment on the same issue which had been adopted during the consideration of the intelligence authorization bill in the Senate.

During the debate in the House on the drug kingpin measure, concerns were raised about the impact the bill could have on the property of United States persons who might have a business relationship with an individual or entity identified as a significant narcotics trafficker, even if the relationship was not directly related to the trafficking activities. Similar concerns

may be raised today. Some have asserted that the bill would preclude judicial review of an action to block access to the assets of a United States person. I would be extremely concerned by that result.

Others contend that the Administrative Procedures Act and the Federal court system would be available to a United States person who desires to challenge an asset-blocking action under the bill.

Mr. Speaker, the conferees did not intend to create a situation in which the ability of a United States person to challenge an asset-blocking action under the bill would be less than the ability of a foreign person. To ensure that an unintended consequence did not result in this area, the conferees agreed to include a provision which would establish a commission to examine the judicial review questions raised by the drug kingpin measure and report its findings to the Permanent Select Committee on Intelligence, Committee on the Judiciary, and the Committee on International Relations.

If the commission concludes that due process concerns raised about this legislation are legitimate, I expect that the Congress will take prompt and immediate action.

Mr. Speaker, intelligence programs play an important role in our national security. The conference report strengthens many of those programs and I urge its adoption.

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

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. MCCOLLUM), a distinguished member of the committee, a chairman of one of our subcommittees, the Subcommittee on Human Intelligence, Analysis and Counterintelligence, a Member who has distinguished himself as leading in the efforts in the war on terrorism.

Mr. MCCOLLUM. Mr. Speaker, I am delighted to take the time at this moment to support this bill. I join in supporting H.R. 1555. The bill is a good one. It reflects a great deal of work by Members and the staffs of the two committees of jurisdiction.

Mr. Speaker, as chairman of the Subcommittee on Human Intelligence, Analysis and Counterintelligence, I am especially glad to report the committee's mark has addressed a wide range of pressing requirements in each of the subcommittee's areas of responsibility. The bill continues the committee's multiyear effort to rebuild our Nation's human intelligence capabilities, as the gentleman from Florida (Mr. GOSS) has remarked earlier. These have been depleted over the years and are now being rebuilt, as they have been over the last several years, and this bill adds enormously to that.

The bill also includes much-needed support for both the intelligence and law enforcement communities to beef up our counterintelligence programs in a responsible and carefully targeted effort. I am equally pleased that this legislation provides resources for improving our analytical efforts towards emerging threats in such diverse environments as Colombia, North Korea and the former Soviet Union.

Among the most significant provisions in the conference report is title VIII, otherwise known as The Foreign Narcotics Kingpins Designation Act. The House considered and approved this legislation just last week as a stand-alone measure. I am happy to report that the House's action was instrumental in persuading the Senate to incorporate the House-passed kingpins language as a part of this conference report.

Based on the success of President Clinton's 1995 executive order targeting the finances of the Cali Cartel kingpins, I strongly believe that the enactment of this legislation will permit our Nation to fight the war against major narcotics traffickers smarter and with greater precision.

The kingpins legislation gives the President additional legal and financial tools to go after the world's most significant drug kingpins. By building on the legal and administrative precedents established during the 4-year development of the Colombia-focused program, the cosponsors and the administration sought to ensure sufficient legal protection for the innocent, while intensifying the pressure on foreign persons and foreign businesses involved in large-scale narcotics trafficking and money laundering activities.

This mechanism is intended to respond to the emerging threat posed by these global criminals and their organizations. Based on the success obtained to date against the Colombians, it is my expectation that this policy tool could be used with equal success against drug lords based in Southeast and Southwest Asia, Europe, the Former Soviet Union, and elsewhere in Latin America. To ensure that the new tool is properly funded and staffed, I would urge the administration provide the necessary personnel and resources within its fiscal year 2001 budget submissions to the Treasury Department's Office of Foreign Assets Control and to the relevant units of the Intelligence Community.

Mr. Speaker, it strikes me that by going after the assets of these kingpins in the United States, we have a great opportunity to destroy the cartels in ways we otherwise would not, and this is the strongest tool to date.

Mr. Speaker, I strongly support the Intelligence authorization conference report before us today, and I urge all of my colleagues to do so.

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

Mr. MCCOLLUM. I yield to the gentleman from New York.

Mr. NADLER. Mr. Speaker, the gentleman from Florida (Mr. MCCOLLUM) stated a moment ago that in title VIII of the bill, the rights of innocent persons are protected——

The SPEAKER pro tempore (Mr. LATOURETTE). The time of the gentleman from Florida (Mr. MCCOLLUM) has expired.

Mr. DIXON. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SISISKY).

Mr. SISISKY. Mr. Speaker, I rise in strong support of the conference agreement on H.R. 1555, the Intelligence Authorization Act for Fiscal Year 2000. First, let me take this opportunity to congratulate the gentleman from Florida (Mr. GOSS), for his efforts in producing a bipartisan bill that addresses the intelligence needs of policymakers and our military.

Additionally, praise must also be extended to the gentleman from California (Mr. DIXON), our ranking Democratic member, for his work in helping to craft this important piece of legislation and for his leadership on the Permanent Select Committee on Intelligence.

Mr. Speaker, this bill is very consistent with the requests submitted by the President. In several areas, the committee recommends modest increases in the request. The committee has recommended additional funding for intelligence, surveillance and reconnaissance airborne platforms that were so important during Operation Allied Force and continue to be critical in the Balkans, Korea and for counterdrug activities.

During Operation Allied Force, we had no ground forces deployed to drive the Serbs into the open, so intelligence surveillance and reconnaissance airborne platforms provided the eyes and ears for our commanders, air crews and targeteers.

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Without these platforms, we would have had little success against mobile targets. These platforms provided unprecedented levels of information to our warfighters.

This funding is critical. The military services have not provided sufficient funding for these very high-demand, low-density assets. For a small campaign like Allied Force, the European Command found it necessary, not only to dedicate all their intelligence, surveillance, and reconnaissance airborne platforms, leaving forces in Bosnia and Saudi Arabia vulnerable, but platforms had to also be borrowed from other theaters.

Operation Allied Force proved the value of our investment in unmanned aerial vehicles or UAV's. The Army Hunter unmanned aerial vehicle was flown aggressively and successfully during the air campaign and UAV's are essential for peacekeeping operations in the U.S. sector of Kosovo today. The bill rightly contains increased funding for unmanned aerial vehicles.

The committee strongly believes that it is not enough to just develop intelligence collection platforms; a corresponding investment must be made in the people and the systems that

task, process, exploit, and disseminate what is collected.

Collection systems are costly enough, but will be of little value if the data cannot be immediately analyzed and disseminated to support rapid retargeting or other time-critical activities. The committee has put a tough provision in the conference report to address this issue and expects the administration to remedy imbalances in the imagery architecture.

Mr. Speaker, this bill would provide the funds that are needed to sustain our efforts to combat terrorism, narcotics trafficking, and weapons proliferation. I am pleased to support the bill. I urge my colleagues to support it as well.

Mr. GOSS. Mr. Speaker, it is my privilege to yield 5 minutes to the distinguished gentleman from California (Mr. LEWIS), the vice chairman of the Permanent Select Committee on Intelligence, and there be no daylight between us, appropriator of the committee who has done a marvelous job of making sure the authorization and the appropriations match up, and I offer my congratulations to him.

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman from Florida (Chairman GOSS) very much for his remarks as well as his time.

Mr. Speaker, in the years I have served in the Congress, I hold in the highest regard the work that I have done with the Members of the Permanent Select Committee on Intelligence in the House and in the other body as well. But, particularly, I want to express my appreciation to the gentleman from Florida (Chairman GOSS) as well as to the gentleman from California (Mr. DIXON) and their very fine staffs for the conference report they have developed this year.

I also want to extend my appreciation for their patience with me as I have gone about learning the work that swirls around the Subcommittee on Defense of the Committee on Appropriations this year. I have not been available as nearly as much as I would have liked, but their patience is much appreciated as well as their help.

I want to spend a few minutes discussing what I view perhaps is the most important action taken in this conference report. It should come as no surprise to anyone who follows unclassified discussions of our intelligence capabilities that we are at the beginning of building a space-borne imagery intelligence capability that is meant to take us through the next several decades.

This capability, usually known as FIA for the term ''future imagery architecture,'' will be an incredible improvement over what we can now do. The satellites promise to deliver many times the data at a much-reduced interval between pictures. It has the potential to revolutionize the way we employ our military. It can also greatly complicate the lives of those terrorists, drug lords, and weapons proliferators who threaten our national security. For this reason, Congress has been supportive of FIA.

FIA, to be carried out over the next decade or so, will be the most expensive program in the history of the intelligence community. Over the last 2 years, Congress has imposed spending caps on the program to make sure its costs will not overwhelm the limited money that is available for our intelligence work.

Despite this imposition of those spending caps, there remain severe problems with FIA. We on the Permanent Select Committee on Intelligence are gravely concerned that the program as currently planned has the potential of being the biggest white elephant in U.S. intelligence history.

Now, why would I suggest that? Well, why? Because there is, effectively, no money budgeted now to task the satellites, process the digital data they collect, exploit the information coming from the data, and then disseminate the information to the national policymaker, the President perhaps, the analysts, or the military unit that needs the information. The best that we can do is hope, in the current circumstances.

Let me say that, for 4 years, Congress has warned that the intelligence and the defense communities must keep up to the need to fund the activities to step up to that need to fund these activities to make the system useful. The tasking, the processing, exploitation and dissemination, what we call TPED, has got to have that fundamental support.

We have been told do not worry, we will take care of it. All the while, we get candid comments from the executive branch that, in reality, there is no plan to fund TPED and not even an understanding of how we ought to go about it.

In this bill, Congress has told the administration enough is enough. We have said that, unless there is a plan implemented that will process the satellite data that FIA will collect, we will not buy the satellite system as currently proposed. In English, it does not do any good to take pictures that no one will ever see.

We are hopeful the administration will step up to the challenge, that the military services who are to be the principal beneficiaries will step up and help pay for the bill, and that the intelligence community will also help by finding priorities that it, too, can set aside for a while. If not, they must next year join with us to rethink this hugely expensive program so as to downsize it and somehow find other savings in its development that will allow us to fund the TPED functions without which FIA will be worthless.

This has been a difficult matter, and I am proud of how the members of the Permanent Select Committee on Intelligences have dealt with this head on. We are all advocates of a strong intelligence community, but such advocacy must be guided by good sense, good judgment, and a jealous protection of taxpayers' dollars. It is time to pay the bill for taking the intelligence community into the new millennium.

Mr. DIXON. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Georgia (Mr. BISHOP), who is the ranking member on the Subcommittee on Technical and Tactical Intelligence.

Mr. BISHOP. Mr. Speaker, I thank the gentleman from California (Mr. DIXON) for yielding me this time.

Mr. Speaker, it is my privilege to serve as the ranking member of the Subcommittee on Tactical and Technical Intelligence. This subcommittee oversees intelligence collected by technical means, such as satellites and airplanes and ships.

During debate on this bill in the House, I urged my colleagues to support the legislation; and I applauded the gentleman from Florida (Chairman GOSS) for his respect of the views of the gentleman from California (Mr. DIXON), the ranking member, and of all of the Democrats on the committee. I commended as well the gentleman from Delaware (Mr. CASTLE), chairman of the Subcommittee on Technical and Tactical Intelligence.

I believe that this conference report deserves the same endorsement from the House. It is consistent with the administration's request. It is fair, and it will enhance our nation's security.

I want to point out to my colleagues that this conference report is the only authorization for those intelligence activities of a distinctly national character. The intelligence activities that are unique to the Department of Defense are conferenced with the armed services committees, and the authorization of those activities appears in both the National Defense Authorization Act and the Intelligence Authorization Act. These DoD-unique intelligence activities make up a large fraction of the nation's overall intelligence budget.

This conference report would add about 1 percent to the President's request for national intelligence activities. As with the House version of the bill, there would be modest increases in the budgets for activities centered in the National Security Agency, the Defense Intelligence Agency, and the Central Intelligence Agency, and somewhat less money for the National Reconnaissance Office, which manages the acquisition of our intelligence satellites.

I am pleased that we have fully funded the major satellite acquisition programs, including the new future imagery architecture, or FIA. These new imagery satellites will greatly increase the volume of imagery we can collect, as well as provide for more frequent coverage of targets, which together will address deficiencies identified in Operation Desert Storm and more recent conflicts.

However, these enhanced collection capabilities will not count for much

unless we also invest in the means to exploit and disseminate the imagery on the ground. On this score, executive branch planning has been extremely poor. The conference report would require a reduction in planned collection capabilities unless substantial improvements are planned for exploitation and dissemination.

I would also like to call attention to significant problems at the National Security Agency. The NSA is facing tremendous challenges coping with the explosive development of commercial communications and computer technology. As the new NSA director has pointed out, while the new technology is providing incredible benefits to our Nation's security and economy, it is taxing in the extreme to those charged with intercepting the communications of hostile powers and drug lords. At the same time, NSA has not demonstrated much prowess in coping with the challenge.

The new director of NSA, I believe, grasps the seriousness of the situation. I hope that we have made progress in focusing the attention of the Secretary of Defense and the Director of Central Intelligence on this critical issue.

Fixing NSA's internal problems is only half the answer. A sustained funding increase of some magnitude will also probably be necessary, and there are no obvious candidates yet for offsetting cuts. Action, however, is imperative since the nation cannot navigate with an impaired sense of hearing.

In closing, Mr. Speaker, this is a responsible bill that will enhance our nation's security. It supports our military forces and our efforts to combat terrorism, narcotics trafficking, and weapons proliferation. I am pleased to endorse it, and I urge my colleagues on both sides of the aisle to support it as well.

Mr. GOSS. Mr. Speaker, might I make an inquiry of how much time remains on both sides.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Florida (Mr. GOSS) has 15 minutes remaining. The gentleman from California (Mr. DIXON) has 17½ minutes remaining.

Mr. GOSS. Mr. Speaker, it is my privilege to yield 3 minutes to the distinguished gentleman from Delaware (Mr. CASTLE), chairman of the Subcommittee on Technical and Tactical Intelligence, the former governor of Delaware, who is going to tell us about that subcommittee.

Mr. CASTLE. Mr. Speaker, I thank the distinguished gentleman from Florida, the chairman of the Permanent Select Committee on Intelligence, for yielding to me, and I thank him for the tremendous work that he does for this country, something that is probably not recognized by many people any place in the country other than people in the intelligence community because of the closed nature of what we do.

The gentleman from California (Mr. DIXON) also is a superb individual in that committee who has helped so much with the intelligence responsibilities of the country.

I would like to also thank the gentleman from Georgia (Mr. BISHOP) who just spoke, who is the ranking member on the subcommittee which I do chair, which is the Subcommittee on Technical and Tactical Intelligence.

I also rise in full support of this conference report for the fiscal year 2000 intelligence authorization.

As chair of the Subcommittee on Technical and Tactical Intelligence, I would like to highlight a few major points of committee emphasis over the past year in areas of technical and tactical intelligence.

We spent a great deal of time investigating the Chinese embassy bombing. As a subcommittee, we looked at satellite launch failures and intelligence support for military operations. There has been considerable emphasis on the requirements for future satellites and on associated production issues, and a lot of investigation and questions focused on revitalization of our Signals Intelligence capability at the National Security Agency.

I am keenly aware of the vital contributions of space-based assets to the United States national security, and there clearly is a future. From diplomacy to precision strikes, our assets in space are essential for confident planning and execution of policy. Continuity in satellite operations hinges on another critical program, space launch.

Therefore, the large number of recent launch failures became an issue of intense concern for me personally. Several ongoing investigations are examining reasons for the failures. There is no doubt that the issue is being taken seriously and that very competent government and industry personnel are working to identify and to resolve problems.

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However, because the cost of each failure can be so enormous, we must strive for the right balance of independent assessments. The committee will continue to scrutinize the launch issues and exercise its oversight duties. Depending on the results of ongoing studies, I am considering a legislative provision mandating review by an independent panel.

In our hearings on support for the military, a predominant theme was the continued imbalance between collection and other intelligence assets. For years, the committee has stressed the need for better planning and financing of intelligence processing, analysis and dissemination. This year we are insisting that our future imagery satellite capabilities be at least roughly balanced with ground capabilities.

Signals intelligence has also suffered from gaps in what we call ''end to end'' capability, as well as from enormous leaps in target technology. For several years, the committee has insisted that changes are needed at the National Security Agency in order to modernize our SIGINT capabilities and improve efficiency.

The committee is most gratified that the new director of NSA, Lieutenant General Mike Hayden, agreed to conduct unrestrained studies of the need for reform, using both an internal and an external team. These studies were just completed. Both endorsed previous committee findings identifying systemic obstacles to efficiency and change. The difficult part, sorting and implementing solutions proposed by the teams, soon begins. General Hayden has our strong support for decisive action that will, by nature, be controversial.

We will not rest easy until SIGINT is once again healthy.

Mr. DIXON. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. ROEMER), a very valuable member of our committee.

Mr. ROEMER. Mr. Speaker, I thank the gentleman from California for yielding me this time, and I also want to thank him and the chairman for their patience, their insight and their help to a new member of the Permanent Select Committee on Intelligence for the past 11 months.

Mr. Speaker, I rise to note the importance of a strong and effective intelligence community. Dating back over 220 years, certainly General George Washington started our intelligence community with the help of such brave patriots as Nathan Hale, who we lost in the first intelligence operation when he was hung by the British. That history and that importance continues as an important thread through the United States efforts in our military history and in our history to be effective in gleaning information from around the world.

If my colleagues read the report, it is equally important, if not even more important today, to have a cost effective and efficacious intelligence community. We deal with such issues as direct cooperation with our military in conflict. Nothing is more important than getting that information in a very timely methodology to our troops in battle.

We have in this report international narcotics trafficking. Very important for the security of our young people. We have counterintelligence and antiterrorism efforts. Very important for the security of our country. Anti-proliferation of nuclear weapons, where we work very closely with the intelligence community. And a fourth area, cyber warfare, where other countries can either organize or hack into our defense capabilities or our business capabilities, something that we need to look at in even more important and focused ways. So for these reasons I think it is even more important for the intelligence community to be more effective in what they do.

The 1996 report on the Roles and Capability of the Intelligence Community, Preparing for the 21st Century,

issued by Harold Brown and Warren Rudman, pointed out four areas that we need to improve in, and I strongly encourage the intelligence community, with the help of our chairman and our ranking member and our bipartisan work, to get better in their cost effectiveness. We had a terrible mistake in the bombing in Kosovo of the Chinese embassy. That is not an issue of money, that is an issue of doing the basic job of mapping.

Secondly, the coordination between the intelligence agencies. We need integrated capabilities.

Thirdly, we need to improve the capabilities of the intelligence estimates. They were not particularly accurate in making and measuring the breakup of the former Soviet Union.

And, fourthly, making sure we have a balance between the human intelligence and the satellite intelligence. Both are very important for our national security. I hope we can balance these efforts in the coming year and have a budget that reflects cost effectiveness.

Mr. DIXON. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, it has been said that truth is the first casualty in war. It is also true that constitutional liberty can be a casualty of war. Certainly when it comes to the so-called war on drugs, we are very casual about sacrificing our liberties.

Title VIII of this bill, the Foreign Narcotics Kingpin Designation Act, empowers the President to designate people as ''significant foreign narcotics traffickers.'' Once designated, all property in the United States of such a person is seized. Any American who does any business with him can be jailed for 10 years and fined $10 million. All this without any criteria for such designation in the bill. All this without any evidence being necessary. No notice, no hearing, no opportunity to be heard, no protection for the innocent, and no judicial review.

Even the Anti-terrorism Act of 1996 allows a group designated by the person as a foreign terrorist organization the right to challenge the designation in court. But not this bill. No judicial review. The President is given the powers of a pre-Magna Carta King of England to accuse and find guilty with no due process, no process at all, and no appeal.

In 1951, the Supreme Court, in the case of Joint Anti-Fascist Committee vs. McGrath, said that the Fifth Amendment due process clause barred the government from condemning organizations as Communists without giving them notice and opportunity to be heard in their own defense. This title gives no notice, no opportunity to be heard, and no appeal. It is clearly unconstitutional and grossly subversive of the liberty for which this country stands and which we are sworn to uphold.

It is a travesty that this very important and very dangerous title was rushed through this House without any hearings and without any committee review. This title alone richly merits the defeat of the entire conference report, and I will urge my colleagues to vote against the report because of this title.

Mr. GOSS. Mr. Speaker, may I inquire about the remaining balances of time for both sides?

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from Florida (Mr. GOSS) has 11½ minutes remaining, and the gentleman from California (Mr. DIXON) has 12½ minutes remaining.

Mr. DIXON. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding me this time and for his leadership, as well as for the leadership of our distinguished chairman, the gentleman from Florida (Mr. GOSS).

One of the provisions of the Intelligence Authorization Act for Fiscal Year 2000 which I have been most interested in is an amendment offered by the gentleman from New York (Mr. HINCHEY) during floor consideration of this bill. The Hinchey amendment required the Director of Central Intelligence to produce a report on the activities of the officers, covert agents, and employees of the intelligence community with respect to the Pinochet regime in Chile.

The Hinchey amendment was somewhat controversial. It was very controversial in fact. It was argued that the search for documents related to human rights violations in Chile directed by the National Security Council was sufficient and nothing further was needed. The issue of cost was also raised, as was the question of how much time should be allotted for the DCI to produce an adequate report on the subject.

Others of us argued that a report was needed on U.S. intelligence activities in Chile with respect to the assassination of President Allende, the accession of General Pinochet, and the violations of human rights committed by officers and agents of Pinochet. Indeed, such a report is long overdue.

An authoritative report from the DCI submitted to the Permanent Select Committee on Intelligence and the Committee on Appropriations on the role of the CIA and other elements of the intelligence community will put into context the information that is now being reviewed, declassified, and released under the direction of the National Security Council. I believe this report should make clear exactly what, if anything, the CIA was doing in concert with General Pinochet and his supporters before and during the Pinochet regime.

Mr. Speaker, I would have preferred to have had a report produced within 4 or 6 months of enactment of this bill, but I am grateful to the chairman, the gentleman from Florida (Mr. GOSS), and our distinguished ranking member, the gentleman from California (Mr. DIXON), for their leadership. We were able to agree that the report be produced in no later than 270 days after enactment and not a year from now, as some would have preferred. I commend the gentlemen for including this in the legislation.

Mr. DIXON. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. HINCHEY).

Mr. HINCHEY. Mr. Speaker, I also want to commend the gentleman from Florida (Mr. GOSS), the ranking member, the gentleman from California (Mr. DIXON), and also my good friend, the gentlewoman from California (Ms. PELOSI), for their hard work in forging this legislation.

The conference report includes my amendment, which was adopted by the House on a voice vote back in May, requiring the CIA to report to Congress on its activities in Chile during the early 1970s. It is time that the Central Intelligence Agency accounted for its role in the military coup that toppled the democratically elected government of Salvador Allende and led to his death. The American people need to know how our government supported the rise of Augusto Pinochet, a ruthless dictator who systematically murdered and tortured his enemies.

General Pinochet has been under house arrest in London for the past year awaiting trial in Spain for his crimes against humanity. The British courts recently upheld the Spanish judge's petition to extradite him.

Last year, the National Security Agency directed the CIA and other government departments and agencies to disclose relevant information regarding Pinochet's military coup and subsequent crimes against humanity. The CIA has not yet complied with this order and has released only a handful of documents to this date. My amendment will ensure that the CIA releases these documents and accounts for its activities during this dark period in Chile's history.

Mr. Speaker, I appreciate the willingness of the gentleman from Florida (Mr. GOSS) to work with me on this issue, and I thank him very much for that. I also thank our ranking member, the gentleman from California (Mr. DIXON), and also the gentlewoman from California (Ms. PELOSI) for their strong and effective advocacy on behalf of my amendment. I know full well that our success would not have been possible had it not been for their diligence, attention and good work.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the gentleman from Nevada (Mr. GIBBONS), a decorated colleague and member of our committee from somewhere west of the Mississippi, who has been invaluable in advising me on military equipment, Air Force needs, and other needs of that ilk, and who adds a great deal of value to the committee.

Mr. GIBBONS. Mr. Speaker, I rise in strong support of the conference report

for the intelligence authorization bill, and I want to thank my friend from Florida, somewhere east of the Mississippi, and the chairman of the committee for yielding me this time.

This past year, Mr. Speaker, has been a challenging one for the intelligence community, particularly in the area of support for our military operations. The United States launched a heavy 4-day offensive against Iraq in the late time frame of December 1998 and fought a war over Kosovo and Serbia earlier this year, all this while our pilots are enforcing the no-fly zones over Iraq. Meanwhile, crises or potential crises in other parts of the world, like the Taiwan Strait, Korea, Indonesia, India and Pakistan, and the Caucasus keep our military on a high state of alert.

Ten years today after the fall of the Berlin Wall I think it is safe to say, Mr. Speaker, that the post-Cold War honeymoon is over. With the men and women of our armed forces deployed across the world, it is especially important that we meet the pressing need for intelligence, surveillance and reconnaissance, or ISR, to support their missions and provide for their protection.

For several years, members of the intelligence community have recognized that American ISR resources and personnel are stretched thin, and we have searched for ways to address these shortfalls. This year, airborne ISR was one of the committee's very top priorities, and I believe this conference report reflects that. Mr. Speaker, while we have not solved all the ISR problems, this bill takes concrete steps toward providing the accurate, timely intelligence and warnings necessary to save American lives and win the battles on the ground and in the air.

□ 1645

Mr. Speaker, I urge my colleagues to support this conference report.

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

Mr. Speaker, I again want to urge adoption of this report. I think it is a fine work product. The gentleman from New York (Mr. NADLER) raises an issue of due process. It is my feeling, Mr. Speaker, although there is some controversy, that there is nothing in this bill that abrogates existing rights of U.S. persons to address their grievance either through the Administrative Procedure Act or ultimately in a Federal district court.

But just in case there is a question on that, and there is, we have provided in this conference report a commission to examine that issue. As I indicated in my opening comments, I hope the commission would act expeditiously on this matter. I think that is sufficient to cover that issue.

Once again, I would like to thank the chairman of the committee for his cooperation and all the members of the committee for their efforts.

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, I want to thank the gentleman from California (Mr. DIXON) very much for his hard work and close teamwork and the great spirit of bipartisanship and concern for our country and its national security that he brings himself and his members and, in fact, all our members to the committee.

I am exceedingly proud of our committee. I am very proud of the membership. The value added of each and every Member brings to the committee a wide variety of view and opinion across the country of the gentleman from Nevada (Mr. GIBBONS), who just spoke who represents vast areas of countryside, and others who represent more concentrated, consolidated urban areas.

We have what I think is a very balanced perspective of the United States of America and its national security needs. But behind as good a membership team as that, I would say we have the finest professional staff on the Hill. I would measure them against any other professional staff. I take great pride in them. And again, I do not make distinctions about party affiliation.

Mr. Millis, our chief of staff, does an excellent job, as does Mike Shehy. Both of them I treat as co-equals in running the affairs of the committee. Pat Murray, our general counsel. We have had an expression today of sympathy that is both personal and collective from all of us to our budget cruncher, Tim Sample. But for all those names I just mentioned, there are other members of the committee that have equally pulled the oars just as well in their own area of expertise and deserve to be recognized and thanked by all of America for the work they do.

I think that the points that needed to come out other than the basic themes that we have made clear in this authorization process, which I point out are exactly in line with the appropriations process, and have gone through a very arduous conference process with our colleagues in the other body, we have covered the ground that we needed to cover; and I think we covered it very well.

We certainly have taken into consideration what our other colleagues who are not on the committee have brought forward during this long, deliberative process this year since the authorization bill began, as we have heard in some of the testimonies from the gentleman from New York (Mr. HINCHEY). And there are many other Members who have brought matters forward, I think the gentleman from New York (Mr. SWEENEY), the gentlewoman from California (Ms. WATERS), and the gentleman from Georgia (Mr. BARR). Several come to mind.

We have tried to accommodate in every way their concerns. We may not have done it in exactly the way they asked, but they have gotten consideration and I think a reasonable result out of this.

The gentleman from New York (Mr. NADLER) has expressed concern about our title XIII. I would point out that our title XIII, as the gentleman from California (Mr. DIXON) just pointed out, basically is the same as what this House has passed recently on a vote of 385–26. The language is virtually the same. But in an abundance of caution and fair play and deliberation to make sure that we have got it right, we have gone forward with the idea of a panel to review the situation just to be extra sure because these are important rights we are talking about.

I think it is that kind of fair play and that kind of reasonableness in dealing with legitimate concerns that this committee needs to be attentive to, and I think we have passed that test. I stand forth here today to ask every Member of this House to proudly support this piece of legislation. I believe it is worthy of their vote.

Ms. WATERS. Mr. Speaker, I have deep concerns about the amount and use of the funds authorized by H.R. 1555, the Intelligence Authorization bill for fiscal year 2000. However, I am especially gratified that the Conference Committee included Section 313, ''Reaffirmation of Longstanding Prohibition Against-Drug Trafficking by Employees of the Intelligence Community,'' in the conference report.

Section 313 clearly states that the employees of the Central Intelligence Agency (CIA) and other intelligence agencies are prohibited from participating in drug trafficking activities. Drug trafficking is clearly defined to include the manufacture, purchase, sale, transport or distribution of illegal drugs. Section 313 also requires CIA employees to report known or suspected drug trafficking activities to the appropriate authorities. Section 313 is based on an amendment that I offered during floor consideration of H.R. 1555. The House adopted my amendment by voice vote on May 13, 1999.

Most Americans would assume that the CIA would never traffic in illegal drugs and would take all necessary actions to prosecute known drug traffickers. History, however, has proven that this is not the case.

For 13 years, the CIA and the Department of Justice followed a Memorandum of Understanding that explicitly exempted the CIA from requirements to report drug trafficking by CIA assets, agents, and contractors to federal law enforcement agencies. This allowed some of the biggest drug lords in the world to operate without fear that their activities would be reported to the Drug Enforcement Agency (DEA) or any other law enforcement authorities. This remarkable—and secret—agreement was in force from February 1982 until August of 1995.

For the past three years, I have been investigating the allegations of drug trafficking by the Nicaraguan Contras during the 1980's. My investigation has led me to the conclusion that U.S. intelligence agencies knew about drug trafficking by the Contras in South Central Los Angeles and throughout the United States and chose to continue to support the Contras without taking any action to stop the drug trafficking.

Even more remarkable is the fact that there is evidence that the CIA has actually participated in drug trafficking activities. In the late 1980's, the CIA began to develop intelligence on the Colombian drug cartels. To infiltrate the cartels, the CIA arranged an undercover drug-smuggling operation with the Venezuelan National Guard. More than one and one-half tons of cocaine were smuggled from Colombia into Venezuela and then stored at a CIA-financed Counternarcotics Intelligence Center in Venezuela.

In certain circumstances, the DEA arranges ''controlled shipments'' of illegal drugs, in which the drugs are allowed to enter the United States and then tracked to their destination and seized. However, in this case, the CIA was more interested in keeping the drug lords happy than confiscating the drugs and prosecuting the traffickers. The CIA asked the DEA for permission to ''let the dope walk,'' that is allow the drugs to be sold on our nation's streets. The DEA refused, but the CIA ushered the drugs into the United States anyway.

On November 19, 1990, a shipment of 800 pounds of cocaine was seized by the U.S. Customs Service at the Miami International Airport. Customs traced the cocaine back to the Venezuelan National Guard and the CIA. Unfortunately, we may never know precisely how much cocaine entered the United States through the CIA's pipeline or how much eventually reached our nation's streets. No one at the CIA was ever charged.

The inclusion of Section 313 in H.R. 1555 sends a clear message to our nation's intelligence community: intelligence employees, agents and assets are not above the law. The CIA should be working to stop the harmful trafficking in illegal drugs that is destroying our communities. It should not be assisting the drug traffickers.

I appreciate the support of my colleagues on this important issue and I especially appreciate the willingness of the conferees to include Section 313 in the conference report for H.R. 1555.

Despite the inclusion of Section 313, I am deeply concerned about the amount and use of the funds authorized by H.R. 1555. The United States government spends tremendous amounts of money on covert activities, espionage and other intelligence activities with little congressional oversight and without the knowledge or support of the American people. Spending on intelligence activities should be decreased considerably and congressional oversight over intelligence agencies must be improved. Furthermore, I cannot in good conscience support an intelligence authorization bill as long as the total amount of funds spent on intelligence activities remains classified and unknown to the people we are elected to represent.

I therefore must urge my colleagues to oppose H.R. 1555.

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

The previous question was ordered.

The SPEAKER pro tempore (Mr. LATOURETTE). The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 1555.

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

There was no objection.

ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

The SPEAKER pro tempore. The pending business is the vote on passage of the bill, H.R. 1714, on which a recorded vote was ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on passage of the bill.

The vote was taken by electronic device, and there were—ayes 356, noes 66, not voting 11, as follows:

[Roll No. 579]

AYES—356

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

NOES—66

Ackerman	Jackson (IL)	Phelps
Baldwin	Jones (OH)	Rahall
Barrett (WI)	Kanjorski	Rivers
Berman	Kildee	Rothman
Blagojevich	Kilpatrick	Roybal-Allard
Bonior	Klink	Sabo
Brady (PA)	Kucinich	Sanders
Brown (OH)	LaFalce	Schakowsky
Chenoweth-Hage	Lee	Scott
Conyers	Levin	Serrano
Costello	Lowey	Slaughter
Davis (IL)	Luther	Stark
DeFazio	McKinney	Stupak
Delahunt	Meeks (NY)	Taylor (MS)
Dingell	Menendez	Tierney
Dixon	Mink	Vento
Engel	Nadler	Visclosky
Evans	Oberstar	Waters
Fattah	Obey	Watt (NC)
Filner	Olver	Waxman
Hinchey	Paul	Weiner
Hoeffel	Payne	Woolsey

NOT VOTING—11

Coburn	Gephardt	Scarborough
Deal	Largent	Smith (TX)
Dickey	Matsui	Wexler
Edwards	Pascrell	

□ 1720

Messrs. PAYNE, BROWN of Ohio, BARRETT of Wisconsin, SERRANO, LEVIN, WAXMAN, and Ms. KILPATRICK changed their vote from ''aye'' to ''no.''

Messrs. BILIRAKIS, GEORGE MILLER of California, and WYNN changed their vote from ''no'' to ''aye.''

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Lundegran, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2454. An act to assure the long-term conservation of mid-continent light geese and the biological diversity of the ecosystem upon which many North American migratory birds depend, by directing the Secretary of the Interior to implement rules to reduce the overabundant population of mid-continent light geese.

PERSONAL EXPLANATION

Ms. JACKSON-LEE of Texas. Mr. Speaker, on rollcall No. 578, I was unavoidably detained because of a celebration honoring the Little Rock Nine sponsored by the gentleman from Mississippi (Mr. THOMPSON). If I had been here, I would have voted ''aye'' for the substitute Dingell amendment.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

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

Any record votes on postponed questions will be taken after debate is concluded on other motions to suspend the rules.

SENSE OF CONGRESS REGARDING FREEDOM DAY

Mr. GILMAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 223) expressing the sense of the Congress regarding Freedom Day.

The Clerk read as follows:

H. CON. RES. 223

Whereas on November 9, 1989, the Berlin Wall was torn down by those whom it had imprisoned;

Whereas the fall of the Berlin Wall has become the preeminent symbol of the end of the Cold War;

Whereas the Cold War, at its essence, was a struggle for human freedom;

Whereas the end of the Cold War was brought about in large measure by the dedication, sacrifice, and discipline of Americans and many other peoples around the world united in their opposition to Soviet Communism;

Whereas freedom's victory in the Cold War against Soviet Communism is the crowning achievement of the free world's long 20th century struggle against totalitarianism; and

Whereas it is highly appropriate to remind Americans, particularly those in their formal educational years, that America paid the price and bore the burden to ensure the survival of liberty on this planet: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) a Freedom Day should be celebrated each year in the United States; and

(2) the United States should join with other nations, specifically including those which liberated themselves to help end the Cold War, to establish a global holiday called Freedom Day.

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

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

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

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

Mr. GILMAN. Mr. Speaker, I am pleased to be associated with this worthy initiative, H. Con. Res. 223 by the gentleman from California (Mr. COX) and the gentleman from California (Mr. LANTOS), which recognizes this important 10th anniversary of the fall of the Berlin Wall.

The Berlin landmark was the most infamous symbol of the Cold War in Europe. It ran like a scar across one of Europe's grandest cities that had enjoyed a reputation for openness, for cultural innovation and flair. Tragically, that wall carved Berlin into two separate cities, its western half, a beacon of hope and freedom; its eastern half, a gray manifestation of Communist tyranny.

It is important that we recall the reasons that the regime of East Germany finally felt compelled to erect that wall, not to keep people out of the Communist ''paradise,'' but to keep people in, to prevent them voting with their feet. Tragically, too many people died when they refused to let the wall impede them in their quest for freedom.

Ten years ago today, the Wall fell. The weight of the Communist system became too much for it to sustain. At that moment, the wisdom of President Ronald Reagan, when he appealed two years earlier to Gorbachev to ''tear down this wall'' and other leaders of the West, that led to the collapse of Communism in Europe was ratified.

It is hoped that our government will enlist all of the nations that benefited from Communism's demise to establish this date as Freedom Day. We owe that to the thousands of men and women in this Nation and in other nations who sacrificed everything to make freedom in Europe a reality.

Accordingly, Mr. Speaker, I urge my colleagues to support this measure.

Mr. Speaker, I ask unanimous consent that the gentleman from California (Mr. COX) be entitled to control the balance of my time.

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 reserve the balance of my time.

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

I want to commend my friend and colleague, the gentleman from the New York (Mr. GILMAN) and my friend and colleague, the gentleman from California (Mr. COX), for bringing this measure before the House. Of course, I rise in strong support of this resolution.

Mr. Speaker, some of us lived through this period from the establishment of the Berlin Wall to its collapse, and these two bookends, in a sense, cover basically the period of the Cold War.

I think it is instructive to begin our discussion of this issue by recognizing that the Berlin Wall is probably the only wall ever built in history not to keep the enemy out, but to see to it that the people behind the wall do not escape. The collapse of the Wall symbolized the collapse of the Soviet empire, and it indicated the end of the Third World War, which the West won without firing a single shot.

What is most remarkable about our victory, Mr. Speaker, is that it was a fully bipartisan victory. It began with the farsighted visionary and pragmatic measures of a Democratic President, Harry Truman; and it concluded during the powerful leadership of President Ronald Reagan who did, in fact, call to have the Wall removed. And from Truman to Reagan, this remarkable era represented one of the most impressive bipartisan periods of foreign policy in the history of the United States.

But it was not only our victory. It was the victory of our allies across Europe who joined together in NATO, the most impressive defensive military alliance the world had ever seen, to resist Soviet and Communist expansion, and it was the victory of the countless heroes behind the Iron Curtain who gave their lives so that others might live in freedom and democracy.

Usually, suspension bills can be easily handled with 40 minutes of discussion and debate. This topic would require 40 hours to begin to pay proper tribute to the countless men and women in this country and abroad who fought for the cause of freedom and whom we honor by establishing a day of freedom, a global holiday on November 9.

Let me just single out a few people who deserve special recognition. I suggest, Mr. Speaker, that the Berlin Wall would still stand, the Soviet Union would still be in existence if it had not been for the farsighted and courageous leadership of Mr. Gorbachev in recognizing that the Soviet Union had lost

the Cold War, that to continue the suppression of tens of millions of people by military force was doomed to defeat and was counterproductive. He deserves full credit along with the others I mentioned and countless others whom we do not have time to discuss this afternoon. But without Mikail Gorbachev's recognition that Russia and the Soviet Union must move along different lines, we would not be here celebrating Freedom Day, November 9.

□ 1730

We need to pay tribute to the freedom fighters in Hungary in 1956, who, against overwhelming odds, demonstrated their commitment to freedom. We are here to pay tribute to the people who led the Prague Spring of 1968, when for the first time there was a determined effort to put an end to Communist dictatorship in the Czechoslovak Republic.

We are here to pay tribute to individual men and women throughout the countries behind the Iron Curtain who, with their dedication and devotion to freedom, have made this day possible. We are here to pay tribute to the dissidents and refusniks in the Soviet Union who, under unbearably impossible conditions, persevered in their dedication to democratic principles.

From the walled cities of Europe to the Great Wall of China, walls have always kept the enemy out. The Berlin Wall, and we celebrate its collapse 10 years ago today, the Berlin Wall was built to keep people in, to prevent them from escaping.

We have succeeded in making Europe whole, free, democratic, and at peace. While the task is certainly not completed, as the events in Yugoslavia in the last few years so clearly demonstrate, we have come a long way in creating a stable and peaceful Europe, prepared to meet the challenges of the 21st century.

In paying tribute to Republican leaders and Democratic leaders, as well known as presidents and as unknown as ordinary people, who believed that people on both sides of the Iron Curtain were yearning to live in freedom and dignity and peace, we are paying tribute to the finest traditions of western civilization.

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

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

Mr. Speaker, I thank my colleague, the gentleman from California (Mr. LANTOS).

Mr. Speaker, it is very important that Congress take time, as we are doing just now, to recognize what is truly important and transcendent and what, on the other hand, is perhaps urgent, perhaps requiring us to devote our time because it is our work-a-day business here, but not nearly so important in the lives of American citizens and citizens around the world as what we are doing here today, remembering, in part, and looking forward, even more importantly, in greater part. So that by remembering, we will always be free.

It was, as the preceding speakers have pointed out, 10 years ago to the day that the Berlin Wall was taken down. It did not fall, it was taken down by the people imprisoned behind it, with the help of people around the world.

In this Chamber, as I have pointed out on many occasions to visitors to the Capitol from California and elsewhere, we have only two paintings. They have been part of the furnishings of the House Chamber for some time.

One of them is an American, the father of our country, George Washington. The other is a foreigner, a Frenchman, the Marquis de Lafayette, who serves, I believe, as a reminder to us that our democracy would not be here without foreign assistance.

The people of Central Europe and the people of Russia and the former captive nations waged their own struggle against Soviet communism, but they would not be free today without help from others, including, in major part, the people of the United States of America.

We will never know how many people perished behind the Iron Curtain, but estimates are 70 million souls lost their lives to communism. The Berlin Wall, which was a 13-foot high structure of concrete and tangled barbed wire, stretched for 103 miles and symbolized the difference between freedom and totalitarianism, the difference between democracy and free enterprise that we enjoyed on our side of the Berlin Wall, and communism, Soviet-style, East German style, that people were required to live under on the other side.

Mr. Speaker, this 13-foot high 103-mile wall topped with barbed wire symbolized the great abiding differences between the two chief systems of the world, communism and its antonym, freedom. The Berlin Wall was called by Germans ''the wall of shame,'' and indeed, 77 Germans lost their lives trying to get out. They were murdered trying to make their way to the light of freedom in the West.

There are many red letter dates in the history of the Cold War that in victory was symbolized by the fall of the Berlin Wall. In 1948, Harry Truman ordered the Berlin Airlift, ensuring that the people of West Berlin would resist the Stalinist siege. In 1991, 2 years after the collapse of the Berlin Wall, the Soviet Union collapsed.

There is another red letter date in this history. It is the future date when the last Communist tyrants in Beijing, Hanoi, Pyongyang, Belgrade, and Havana are off the world's stage. But that fight remains for us today.

The most memorable date of all that we commemorate now is that date exactly 10 years ago, November 9, 1989, when the Berlin Wall came tumbling down. I was in Berlin 10 years ago and watched this process of physical dismantlement, and what an amazing metaphor, and actually stepped through a hole in the Berlin Wall.

In 1977, more than a decade earlier, the former Governor of California, later to become the President of the United States, talked to a man who would one day become his national security adviser, and it was Ronald Reagan conversing with Richard Allen.

He told Richard Allen, history records, ''My idea of American policy toward the Soviet Union is simple. It is this: We win and they lose.'' That approach, begun by Harry Truman, carried throughout the rest of the 20th century until the collapse of the Berlin Wall in 1989, at the conclusion of the Reagan presidency and the beginning of the Bush administration, was a visible, tangible symbol and representation of American resolve to win that fight, and it was a war.

When President Reagan took office, the Soviet Union had already invaded Afghanistan, the communists had declared martial law in Poland, and the United States responded with strength. We imposed sanctions on the regime in Poland, and indeed, on the entire Warsaw Pact and Russia, cutting back on technology, never granting them most-favored-nation trade status.

In 1983, NATO showed its solidarity, showed that it would not be divided by Soviet designs, when, against massive popular protests in the United Kingdom and in Germany, Prime Minister Thatcher and Chancellor Helmut Kohl agreed to accept the deployment of intermediate range missiles on their territory deployed by the United States.

Three years later at Iceland, at Reykjavik, when I was working for President Reagan in the White House, President Reagan told his counterpart, Mr. Gorbachev, that the strategic defense initiative, the right and the obligation of the West to defend itself, would not be set aside. There would not be an arms control agreement that would have the direct consequence of permitting the Soviet military comfort and continued life.

That same year President Reagan agreed to provide shoulder-fired Stinger missiles to the rebels in Afghanistan, fighting the Red Army. It was thought at the time that no one could defeat the Red Army, but just a few years later that is exactly what happened, and another big chunk of the Soviet empire fell apart.

When one recounts the popular movements and the life-threatening risks that were taken in order to defeat Soviet communism, one recalls Charter 77 in Czechoslavakia and the leadership of such men and women as Vaclav Havel. We remember the Solidarity movement in Poland, and the leadership of such extraordinary people as Lech Walesa. We remember people like Vytautas Landsbergis and the Sajudis movement in Lithuania.

It was my opportunity to travel to those countries to meet with those people; to meet, indeed, with a man who eventually would become the President

of Hungary, Arpad Goncz. We have to recall that it was Hungary that accepted the refugees through the Berlin Wall that began to, more than anything, strike at the very foundations of the wall itself and everything that it stood for, ultimately the collapse of the Soviet Union.

We, with this House concurrent resolution, are working with our colleagues in the other body to do more than just speak today on the 10th anniversary so that we in this body will pay due attention to an important milestone in the history of freedom and the advance of freedom around the world. We are also asking our government to work with governments around the world to establish a freedom day that will perennially recognize the victory of the free world over communism in the Cold War, and remind us that freedom requires us to be ever vigilant.

There are a number of Members who wish to speak on this resolution. I wish to recognize Members not in this body who are responsible for advancing this legislation. Specifically, I would like to recognize Ben Wattenburg with the American Enterprise Institute, a veteran of the administrations of Presidents Johnson, Reagan, and Bush, who has written amply on this topic, and I think done as much as any single individual to move us to this action.

I would also like to point out that the Senate majority leader strongly supports this legislation, as does Senator LIEBERMAN, who will be moving the companion in the other body.

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

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

Mr. Speaker, I cannot help but comment on the many things that come back to memory, listening to my colleague, the gentleman from California (Mr. COX).

The distinguished Democratic leader, the gentleman from Missouri (Mr. GEPHARDT) and I were at the wall as it was destroyed physically, and it was our great pleasure to participate in the physical destruction of the Berlin Wall, which clearly is one of the highlights of my life, and I am sure that of the gentleman from Missouri (Mr. GEPHARDT).

Mr. Speaker, it gives me a great deal of pleasure to yield 4 minutes to my colleague and friend, the gentleman from Wisconsin (Mr. KIND).

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

Mr. KIND. Mr. Speaker, I thank my good friend, the gentleman from California (Mr. LANTOS), one of the most preeminent defenders of human rights and freedom in this body, for yielding me this time.

Mr. Speaker, I rise as a proud supporter of this resolution, which commemorates the 10-year anniversary of one of the most astounding historical events of the 20th century, the fall of the Berlin Wall and the collapse of communism throughout Central Europe.

□ 1745

What started out as a trickle, Solidarity's victories in Poland during June of 1989, Hungary opening up its border with Austria later that summer, led to a deluge of East Germans flooding across the Berlin Wall. And a few weeks after that, the Velvet Revolution in Czechoslovakia took place. And no one could predict these events and no one knew how to react to these events.

One of my most cherished possessions that I still keep here in Washington with me on my desk is this chunk of the Berlin Wall. It still has graffiti painted on it. Coincidentally, it is shaped like the State of Wisconsin. But it is a chunk that I personally whacked out of the Berlin Wall on October 3, 1990, during the reunification celebration when I was over there as a student traveling throughout Central Europe.

This came at a crucial time in my life, Mr. Speaker. As a third year law student, I was watching these historical events unfold with rapt attention like the rest of the world was, but I was feeling a little bit disillusioned, and a little bit cynical about our own political process here in this country. So I decided a few months after the revolution had taken place to travel through Central Europe to visit the European capitals, live out of a backpack, survive on cheese and bread during that time and see firsthand these remarkable changes taking place.

I met when I was traveling through there the real heroes in my mind of the revolutions and the changes that took place. They were students such as myself about my age who had literally, on the front lines of the demonstrations, literally looking down the barrel of communist guns and facing Soviet tanks, not knowing whether they were going to succeed or whether this was going to turn into a massacre. They knew their countries' individual histories. 1968, Prague Spring. 1956, Hungary when the communist authorities did in fact crack down. And as history later showed during the Velvet Revolution, the Politburo voted 5 to 4 not to use force to bring down the demonstrations. One vote could have made all the difference in Prague during that fall of 1989.

Mr. Speaker, I asked many of these students what they remembered most about those demonstrations and the events and they said two things: How terribly cold it was as they were maintaining candlelight vigils all night long, and the fear that they felt, again not knowing whether or not the military was going to open fire on them. But perhaps the most important wall that fell in that region to make this all possible was not even visible. It was the wall of fear that fell. And we cannot overestimate the role that fear does play in any totalitarian or authoritarian regime to keep them in power.

But this was made possible because Mikhail Gorbachev, as the gentleman from California (Mr. LANTOS) already indicated, changed the dynamics in the region by denouncing the use of force in order to keep communist governments in power; by pursuing his policies of glasnost and perestroika, the general opening of information and ideas in these regions. It diminished the fear and empowered people to have the courage to demand change.

Perhaps it is the greatest magnificent irony that one of the most oppressive communist regimes in that area, Czechoslovakia, would later be led by former poets and playwrights. Vaclav Havel, the first democratically elected President in Czechoslovakia, was a former playwright himself. The first democratically elected president since Masaryk and Edvard Benes just before the Second World War.

He was the founder of Charter 77, the moral blueprint for change in the area, and also founded the Civic Forum that gave the people in Czechoslovakia the political alternative to the communist regime, but not before he was imprisoned on four separate occasions. In fact, during one of those imprisonments he was on his deathbed, literally. The communist authorities did not want a martyr on their hands, so they went to him and said, ''Listen, the people who give out the Obie Award will allow you to direct your own play in New York and get proper medical attention.'' And he said, ''I just have one question. If I go, will you allow me back in?'' And they could not give that assurance and so he refused. The rest, as we say, is now history.

But in conclusion, I just want to pay a special tribute and wish a special happy 10-year anniversary to those students who really were on the front lines and showed through their courage that there are causes and ideals greater than one's self that are worth risking everything for. So on this day, my thoughts and my memories go to many of those students who I personally had a chance to meet and who inspired me to get involved in public service when I did return to the United States.

Mr. COX. Mr. Speaker, I yield such time as he may consume to the gentleman from South Carolina (Mr. SPENCE), chairman of the Committee on Armed Services.

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

Mr. SPENCE. Mr. Speaker, it is entirely proper that we observe this anniversary of the wall coming down in Berlin and the later end of the Cold War. I think it is appropriate too that we reflect on how this came about.

Mr. Speaker, the Cold War took up a large space in our history of this country. We faced many hardships during this war. But the policy that made the end of the Cold War come to an end is something that we should reflect on and learn a lesson from.

We fought communism all over the world. We helped other people to fight

communism. We engaged in something people criticized us for: An arms race. An arms race. The arms race was a big part of the policy that allowed us to win that war.

A strategic defense initiative by President Reagan, something we have been working on ever since that time, played a big part in that policy and the end of that Cold War.

In essence, the communists could not keep up with our free market economy and the freedoms we have in this country. They could not keep up, and so the war came to an end, the Cold War.

But my concern today is that we have not learned from that experience. There are many lessons to be learned from it. We have not learned from it. We have made the same mistakes we made after every conflict we have ever been involved in. We have cut back too much, and the result is that we are not prepared today adequately to defend this country against all of the threats we have today with us.

Mr. Speaker, mark my word, we are living in a very dangerous world today. As a matter of fact, it is more dangerous than during the Cold War because we still have the Cold War threats of nuclear warfare plus now we have threats of weapons of mass destruction. And I might point out that we are unprepared to defend against either. Intercontinental ballistic missiles and nuclear warfare and theater missile defenses against theater missiles and all the weapons of mass destruction.

A new study is out showing that in the future, this country will be subject to attack on American soil and Americans will die in large numbers on American soil. We have had other places to fight in the past, and we face this kind of a future and, Mr. Speaker, if we do not return to the Reagan policy of peace through strength, we will not be able to face this kind of a threat in the future.

Mr. LANTOS. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. MCNULTY), my friend and colleague. He has been an indefatigable fighter on behalf of freedom during his service in this body.

Mr. MCNULTY. Mr. Speaker, I thank the gentleman from California (Mr. LANTOS) for yielding me this time, and I thank both of my friends from California for bringing this resolution to the floor. I strongly support it.

Mr. Speaker, 1989 was a wondrous year to be alive, and the events which we celebrate actually started in Poland. After many years of struggle during which Lech Walesa and his followers spent their time under martial law, house arrest, or actually in jail, democracy prevailed in the great nation of Poland.

And then, as others have said, the movement quickly spread throughout Eastern Europe. I will never forget as long as I live the specter of Erich Honecker, then the leader of East Germany, standing up before the world and making this pronouncement: ''This is where it stops. It shall not happen here,'' meaning the democracy movement.

Within weeks of his making that statement, he was no longer the leader of East Germany. He was replaced by Egon Krenz, who decided to adopt the ''moderate hard line,'' which roughly translated meant they were going to try to appease the democracy movement but preserve the communist system. He too was quickly dispatched, and we know the rest of the story.

Mr. Speaker, I was at The Berlin Wall when the people were out there with their hammers and chisels tearing it down piece by piece. You can imagine how I felt, this child of the Cold War, brought up in Green Island, New York, population 2,500, taught by the good sisters of St. Joseph who had a monthly drill where we were required to drop to the floor, get under our desks and prepare for the air raids by our totalitarian enemies. And that had an impact on me, Mr. Speaker. One day I would be thinking about my hopes and dreams and aspirations and how I wanted to be like my father and go into public service, and the next day we would have one of these drills and I was scared. It had a tremendous impact on me to think that some world leader somewhere could make a decision which would end humankind as we knew it.

Mr. Speaker, I am grateful that I have lived to see the day when my four daughters and my three grandchildren and young people all over the world can look forward to growing up in a more peaceful world.

As I was standing at the Berlin Wall watching it being torn down, I knew I was present for a great moment in history. I felt like the gentleman from Wisconsin (Mr. KIND). I wanted some commemoration of that. I noticed as people were chipping away at the wall and the pieces were falling they would catch them and put them in their pockets as little mementos. And I said to myself, I think I would like to do that. Already, capitalism being in evidence, there were vendors out there selling pieces of the Berlin Wall. Ever the skeptic, I said ''how do I know that those pieces came off the wall?'' So I looked around and capitalism being further in evidence, there was a guy walking back and forth with hammers and chisels renting them out. So I went over with my military escort who spoke German and we made a deal and I paid some money and I grabbed a hammer and chisel and did what the gentleman from California (Mr. LANTOS) did. I chipped away at that wall and helped tear it down and brought back some of those pieces to give them to veterans of our Armed Forces who I knew would cherish them.

I later went through Checkpoint Charlie, or the remnants of it, and talked to people in East Berlin and was just totally amazed by what they were telling me about what was happening. I came back to the other side. I was to be briefed by our commanding general, and before he could say anything to me I started talking and I could not stop talking about how excited I was at what I had just heard and witnessed. He just said to me: ''MIKE, I wish you were with me the first day they opened up free access through Checkpoint Charlie. They had a ceremony and everybody was lined up on our side and as the people came through from East Berlin, they were very polite to the politicians and other diplomats that were in the line. But they saw my uniform and they came to me and one after another, they told me, 'You tell your government, but particularly you tell your soldiers, how grateful we are for their vigilance through the years. Had it not been for their vigilance, we would not be enjoying this new freedom today.'''

Mr. Speaker, at that moment in my life I was never more proud to be an American.

□ 1800

So, to me, Mr. Speaker, it is no coincidence that Freedom Day is so close to Veterans' Day. We should remember what happened after those events, too, namely the breakup of the Soviet Union into individual democratic republics. I was in one of them on their Independence Day: Armenia. What a great thrill it was to be with them the day after their referendum as they danced and sang—(the gentleman from New York spoke in Armenian), long live free and independent Armenia.

Let us remember all that, but especially let us remember the soldiers who are responsible for the freedom that is enjoyed now by hundreds of millions of people around the world who had been denied it all their lives.

Mr. COX. Mr. Speaker, may I inquire how much time is remaining.

The SPEAKER pro tempore (Mr. LATOURETTE). The gentleman from California (Mr. COX) has 4 minutes remaining, and the gentleman from California (Mr. LANTOS) has 1 minute remaining.

Mr. COX. Mr. Speaker, we have only four speakers remaining. I ask unanimous consent that each side be given 2 additional minutes.

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

There was no objection.

Mr. COX. Mr. Speaker, I yield 1½ minutes to the gentleman from Mississippi (Mr. WICKER).

Mr. WICKER. Mr. Speaker, I regret that there is not more time to discuss a very important and historical day, the 10th anniversary of the fall of the Berlin Wall. Like the gentleman from New York (Mr. MCNULTY), I am a member of that baby boom generation who remembers Khrushchev pounding his shoe, fallout shelters, and all of the images of the Cold War. We wondered if Eastern Europe would ever be free and if international Communism would ever be ended.

So I am pleased to take part in this debate today. We have already heard the names of a number of individuals who have participated over time in bringing about the end of European Communism.

The gentleman from California (Mr. LANTOS) mentioned President Truman and President Reagan. Certainly we should not forget that there were even members of the Reagan administration who, during that time, were worried about President Reagan using terms such as ''evil empire'' or saying, ''Mr. Gorbachev, tear down this wall.'' They urged him not to do so, but thank goodness President Reagan was strong and was one of those people who enabled us to be having this celebration today.

I want to take just a moment to honor the name of another anti-Communist hero, Whittaker Chambers. I have just been reading the book, *Witness*, the autobiography of this courageous individual who had the fortitude to come forward, to name names, to risk his family, his finances, his future, and even his freedom to say that there were Communists in our own Federal Government and to play a crucial roll in the fight against international Communist tyranny.

I think, while we are celebrating the 10th anniversary of the falling of the Wall, we should also remember the name of Whittaker Chambers, and I honor his memory today.

Mr. COX. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, those two words, Cold War, are chilling to the millions of people that never knew freedom before the Wall fell. Many U.S. citizens have never known a socialist or Communist regime, although many Americans gave their lives and efforts to remove just a small symbol and a barrier to that freedom.

I would like to thank the gentleman from California (Mr. LANTOS) and the gentleman from California (Mr. COX). I want to thank them deeply for the men and the women that they spoke about that fought for this challenge. But I would say to my friends that these same men and women would challenge us to continue the fight for an invisible, but a real wall to freedom of a socialist and Communist ideology that enslaves freedom itself.

The former Soviet Union and China, in my opinion, are bitter enemies of the United States. Does that mean we need not engage them? No. Firm diplomacy, fair trade, not just trade, and even a big stick at times. But peace through strength is a hollow cry for many of those that brought down the Wall. For those that are aware of our military today know that that Wall would not fall under peace through strength with our military.

It is a challenge that all of us in this House, both Republicans and Democrats and Independents, should fight for on a very bipartisan basis.

Mr. COX. Mr. Speaker, I ask the gentleman from California (Mr. LANTOS) if he would agree to yield 1½ minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. LANTOS. Mr. Speaker, I am happy to yield 1½ minutes to the gentleman from Minnesota (Mr. GUTKNECHT).

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman from California (Mr. LANTOS), the ranking member, for yielding me this time.

Mr. Speaker, words have meaning. Ideas matter. Actions have consequences. About the time the solidarity movement began to take root in Poland, the Roman Catholic Cardinals sort of shocked the world, and they elected a Roman Catholic Cardinal from Poland to become the new Pope.

As the solidarity movement gained strength, there was fear that the Soviets would actually send military forces to bring down that movement in Poland. The new Pope sent word to the Soviets that, if the Soviets invaded his native Poland, he would be there to meet them. Words have meaning.

Then later, our President Reagan went to Europe; and against the advice of some of his advisors, he used those very harsh words, he talked about that evil empire; and he talked about the ash heap of history. Words have meaning.

Then later, when President Reagan went to Berlin and he said, ''Mr. Gorbachev, if you mean what you say about Glasnost and Perestroika,'' he said, ''Mr. Gorbachev, come to Berlin and tear down this Wall.'' Now, those words were barely reported here in the Western press, but they thundered across Eastern Europe. Those words alone began to build up the momentum in Eastern Europe.

So we can celebrate today the 10-year anniversary and, in some respects, the anniversary of the real victory of all of those veterans we sent to Europe. But back in World War II, we sent 16½ million people to fight that war. They came back, and it was not really concluded because half of Europe was still enslaved.

This is a great victory for all Americans. It is a great victory for the people of the world. I am delighted we are moving forward with this resolution.

Mr. COX. Mr. Speaker, with the agreement of the gentleman from California (Mr. LANTOS), I ask him to yield 1 minute to the gentleman from Florida (Mr. MILLER).

Mr. LANTOS. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. MILLER).

Mr. MILLER of Florida. Mr. Speaker, this is a special occasion today for us to be here on the 10th anniversary of the collapse of the Berlin Wall because it symbolizes a victory in the Cold War which dominated us in this 20th century, for the second half of the 20th century.

Some of the kids are now learning in the history books what so many of us lived through back in the 1950s and 1960s and 1970s and 1980s.

It is very special to celebrate, but also to say thanks to the millions of Americans and millions around the world that helped fight for freedom and democracy against the Communist evil empire, as President Reagan used to call it.

Unlike victories in World War II and World War I where we had a signing, this was a gradual victory; and it is not totally over because we still have Communist dictators in the world in North Korea and Cuba.

But the thing is we have a victory that we need to celebrate and to say thanks. That is why this today is a special occasion. Those photographs in the paper of President Bush and Mikhail Gorbachev and Helmut Kohl over in Berlin brings back vividly the sacrifice that was made. So thanks to everyone that contributed to this great great victory.

Mr. COX. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. WOLF), a distinguished leader in the Congressional Human Rights Caucus who has for years advanced the cause of freedom, to conclude the debate on this legislation.

Mr. WOLF. Mr. Speaker, I saw the Berlin Wall the first time in 1982. It was moving. I am honored to have this opportunity in support of this resolution to have the 10th anniversary but also for Freedom Day.

People say the Berlin Wall fell down. The Berlin Wall did not fall down. The Berlin Wall was pushed down. Ronald Reagan pushed the Berlin Wall down when he gave the evil empire speech. The Pope helped push the Wall down. Lane Kirkland of the AFL–CIO when he gave money to Lech Walesa and solidarity helped push the Wall down. Natan Shiransky, when he got out of gulag 35 and a Russian said walk straight across the bridge, zigzagged back and forth against the bridge in defiance of the Soviet Union. Natan Shiransky helped push the Wall down. Elena Bonner helped push the Wall down. Zacharov helped push the Wall down.

Whittaker Chambers, the gentleman from Mississippi, when Whittaker Chambers wrote in the book Witness, he said, ''When I left the Communist party, I believed that I was leaving the winning side and joining the losing side, and nothing I saw has made me think that I was wrong.'' Whittaker Chambers was wrong on this point, and Ronald Reagan was right on this point. In fairness to Members on both sides of the aisle in strong support of anti-Communism was right.

Lastly, in honor of Colonel Nicholson who was the last member of the military. It was a military designated in West Berlin who was killed by the Soviets in East Berlin. We honor him with this resolution.

I want my children to remember. I want my grandchildren to remember. I

want everyone to remember. The Berlin Wall did not fall. These people pushed it down.

The SPEAKER pro tempore. The gentleman from California (Mr. LANTOS) has 1½ minutes remaining.

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

Mr. Speaker, in concluding this debate, we need to remind ourselves that, as we rejoice in the 10th anniversary of the collapse of the symbol of tyranny, the Berlin Wall, that the battle is not yet fully won. There are dictators in Tehran. There are dictators in Baghdad. There are dictators in North Korea. There are dictators in Belgrade.

Our job will not be finished until every single man, woman, and child on the face of this planet will be able to practice his religion, speak his mind, be able to travel freely, be able to join associations of his own choosing, political parties or otherwise.

We have come a long way. The Soviet Union is nothing but a bad memory. But dictatorial regimes still exist. Freedom Day, as we will celebrate it, will not be fully a reality until in every single country, from the Taliban-controlled Afghanistan to the Milosevic-controlled Yugoslavia, will be able to live and breathe freely. We hope that this body will then again proclaim freedom and Freedom Day on November 9 for all the inhabitants of this planet.

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

Mr. COX. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. WICKER).

(Mr. WICKER asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. WICKER. Mr. Speaker, this morning, a very thoughtful editorial on this subject appeared in my hometown newspaper, the Northeast Mississippi Daily Journal.

Mr. Speaker, I insert that editorial for the RECORD as follows:

[From the Daily Journal, Nov. 9, 1999]

A PEACEFUL REVOLUTION THAT OPENED THE BERLIN WALL MUST BE SUSTAINED

The fortified portion of it was 26 miles long. It stood up to 15 feet high in spots. It was topped with barbed wire and an assortment of other obstacles.

Anyone brave or foolish enough to try to scale it had to get by electronic alarms, mines, trenches and, of course, armed guards. One hundred seventy people died trying.

The Berlin Wall became the most dramatic symbol of the Cold War, a stark and striking reminder of the tyranny of communism. The government of East Germany had to wall in its own people, so oppressive was the environment on its side of the wall and so compelling were the freedoms enjoyed on the other.

Ten years ago today the wall fell, in a figurative sense. Its fortified passages were opened and traffic allowed to flow freely between East and West Berlin. Within a year East and West Germany were unified. By 1992 the wall was physically dismantled.

Who can forget that amazing period in Eastern Europe as communist governments one after the other fell, virtually bloodlessly, the victims of a new yearning in their people and an old rottenness in their core. The world drew inspiration from the young protesters defiantly perched on the wall, smashing away pieces of it, mocking its pretense to control over their lives.

The fall of the wall and the unification of East and West Germany were events that virtually no one predicted would occur so rapidly and with so little violence. These and corresponding events in Eastern Europe, beginning with the Solidarity movement in Poland in the early 1980s, exposed the great vulnerability of communism or any oppressive system when strong people unite against it.

Today communism, while not completely dead, is completely discredited. Even China's leadership has been forced to modify its formerly orthodox communist economy in order to survive, though political repression is still a fact of life in that last communist power.

Ten years after the fall of the Berlin Wall, and eight years after the complete disintegration of the Soviet Union and the Soviet bloc, the world is a safer place.

And yet. . . .

Lurking beneath the evolving democratic processes in former communist countries are the forces of reaction, remnants of the old guard or those nostalgic for its return. The transition to democratic governments and free markets in Russia and Eastern Europe has hardly been smooth; one crisis after another has marked the effort by formerly communist countries to make up for decades of failed economic, social and political policies. There are those exploiting the inevitable discontent.

The United States has a vested interest in seeing that those countries who threw off the shackles of communism and brought a thaw to the nearly half-century of Cold War succeed. We have preached the gospel of free markets and free political systems, and we must maintain our determination to assist them in working through the pains of transition that can seem worse to some than the stability of the old system.

The United States probably kept Western Europe from eventually succumbing to communism by rebuilding its cities and economies with the Marshall Plan after World War II. We are not in a position nor is there the need to proceed with a program of that magnitude today.

But aid and assistance, government to government and citizen to citizen, from the U.S. to formerly communist countries, as well as active diplomatic efforts to achieve the stability for freedom to flourish, are vital to our national interests.

Some would say it's time for the United States to withdraw, to give up its role as a leader of the free world, to worry only about internal concerns. That would be to dishonor the sacrifices already made by Americans: remembered Thursday, Veterans Day and the courage of those who fought to overcome tyranny in their own lands.

The Berlin Wall, and all it represented, failed 10 years ago today. What followed must succeed, and we must be willing to help it happen.

Mr. COX. Mr. Speaker, I submit for the RECORD an article written by Ben Wattenberg of the American Enterprise Institute, who first proposed the idea of a Freedom Day in December 1991. I am proud that we are finally moving forward with this idea, and I thank him for his commitment to ensuring that future generations recognize the important sacrifices made by those who fought for freedom against the evils of communism.

[From the Washington Times, November 4, 1999]

MOVING FORWARD WITH FREEDOM DAY

(By Ben Wattenberg)

Ten years ago, on Nov. 9, 1989, the Berlin Wall was battered down by the people it had imprisoned. The event is regarded as the moment the Cold War ended. For Americans without sentient memories of World War II, the end of the Cold War has been the most momentous historical event of their lifetimes, and so it will likely remain.

Long yearned for, the end of the Cold War has more than lived up to expectations: Democracy is on the march globally, defense budgets are proportionately down, market economies are beginning to flourish most everywhere, everyday people are benefiting each and every day.

The end of the Cold War actually was a process, not an event. By early 1989, Soviet President Mikhail Gorbachev had pulled his troops from Afghanistan, whipped. Poles elected a non-communist government; the Soviets did nothing. Hungary, Czechoslovakia, East Germany and later Bulgaria installed non-communist governments. It was called ''the velvet revolution,'' with only Romania the exception; Nicolae Ceausescu and his empress were executed.

For almost two years, the U.S.S.R. remained a one-party communist state, gradually eroding. Hard-liners attempted to resist the slow motion dis-memberment. On Aug. 19, 1991, Boris Yeltsin stood on a tank to resist a hard-line coup. The hammer-and-sickle came down; the Russian tricolor went up. Other Soviet republics declared independence, including the big guy on the block, Ukraine.

U.S. diplomats did not ''gloat'' about it. The sovereign state of Russia would be unstable enough without the United States rubbing it in.

On Dec. 4, 1991, I proposed in a column that a new national holiday be established to commemorate the end the Cold War. I asked readers to participate in a contest to: 1. Name it; 2. pick a date; and 3. propose a method of celebration.

Several hundred submissions came in. Some of the most imaginative entries for a name were: ''Defrost Day,'' ''Thaw Day,'' ''Ronald Reagan Day,'' ''Gorbachev Day,'' ''Borscht Day,'' ''Peace Through Strength Day'' ''E Day'' (which would stand for ''Evil Empire Ends Day''), ''E2D2'' (''Evil Empire Death Day''), ''Jericho Day'' ''Pax Americana Day'' and ''Kerensky Future Freedom Day'' (recalling that Mr. Yeltsin was not the first pro-democratic leader of Russia).

Scores of respondents offered ''Liberty Day,'' ''Democracy Day,'' and mostly, ''Freedom Day.'' In June of 1992, I publicly proclaimed ''Freedom Day'' the winner.

One suggestion for the date of the new holiday was June 5, for Adam Smith's birthday. But the most votes went for Nov. 9, the day the wall fell. So today I proclaim that date Freedom Day.

There were ideas about how to celebrate and commemorate Freedom Day: Build a sibling sculpture to the Statue of Liberty; eat potatoes, the universal food; build a tunnel to Russia across the Bering Strait; thank God for peace; welcome immigrants; mediate; issue a U.N. stamp; build ice sculptures; send money to feed Russians; and do something you can't do in an unfree country—make a public speech, see a dirty movie, celebrate a religion, travel across a border.

I propose that discussion on the matter of how to celebrate be put on hold until we get the holiday established.

How? Because all the major presidential candidates participate in the Cold War, they should endorse the holiday. Legislators

ought to push for it. Anyone who worked in defense industry, or paid federal taxes from 1945 to 1989, ought to support it. President Clinton ought to go to the Reagan Library to endorse it.

I met with Mark Burman of the Reagan Presidential Foundation. He says they are on board for a campaign. The other great presidential libraries—Truman, Eisenhower, Kennedy, Johnson, Nixon, Ford and Carter—should join in.

So should anyone concerned with the teaching of American history. The holiday will remind American children that their recent ancestors preserved freedom. The Cold War generation may not be ''the greatest'' but they did their job—victory without a major hot war.

Americans can only create an American holiday. But we ought to invite all other countries to join in, Russia first. The citizens of Russia won the Cold War as surely as we did. If I were a Chinese dissident I'd promote the idea; it might give their leaders a clue.

If you like the idea, or have ideas, you may e-mail me at Watmail@aol.com. I'll pass the correspondence along to the appropriate persons, as soon as I figure out who they are.

Mr. HOYER. Mr. Speaker, I rise today to recognize the Tenth Anniversary of the fall of the Berlin Wall. Perhaps no act in the latter half of this century better represents the human quest for freedom and dignity. Perhaps no barrier more aptly symbolized the moral bankruptcy of an entire political movement—a movement that subjected its citizens to forcible detention.

As President Kennedy noted during his famous speech in West Berlin in 1963, the Wall was erected to keep its citizens within. As we all knew, the Wall was fundamentally flawed and had to come down. Its dismantling foreshadowed the collapse of the Soviet Union and communist domination of Eastern Europe. Who would have thought that less than 10 years later three former members of the Warsaw pact would become members of NATO? Who would have predicted that NATO would survive as an engine of security and democracy-building in Europe?

When I was appointed to the Helsinki Commission in 1985, there were serious questions in the United States about the viability of the Helsinki process. Had the process emphasized security at the expense of human rights? Was it perhaps time to reconsider the process in the absence of tangible progress on human rights questions?

Today, we celebrate the freedom yielded by our steadfast commitment to the process and by our demand that the former Soviet bloc countries adhere and implement the human rights standards enshrined by the Accords. The fall of the Berlin Wall transformed the world and demonstrated unreservedly the dignity of man as fundamental to democracy. The Organization for Security and Cooperation in Europe (OSCE) took a stand—that human dignity, tolerance and mutual respect would be the standards for all the nations of Europe as we entered in 1990s.

Almost immediately, the fall of the Wall ushered in new members to the OSCE—Lithuania, Latvia, Estonia and Albania. All were freed from the shackles of Soviet domination, and began to express a desire to join the Helsinki process.

Why would they want to join when in effect we had won? Because the Helsinki process could serve as a source of values and act as an agent of conflict resolution. It provided participating States with a blueprint by which to guide them away from the legacy of the past. But most importantly it reminded members—old and new—of their responsibilities to their own citizens and to each other.

This lesson would be sorely tested in the years following the Wall's fall with the dismemberment of Yugoslavia, the genocide of Bosnia, the economic collapse of Albania and the emergence of new threats to the citizens of Russia. The emphasis on rule of law in the Helsinki process would become even more relevant for all of Europe.

One year after the fall of the Wall, at the OSCE Paris Summit, former political prisoners like Vaclav Havel and Lech Walesa, who had fought for the rights espoused at Helsinki in 1975, led their countries to the table and recommitted themselves and their governments to the principles of human rights, security and economic cooperation that are the foundation of the Final Act. Today, 54 nations of Europe, the Caucasus and Central Asia are committed to the Helsinki process as participating States of the OSCE.

Mr. Speaker, as we reflect on this anniversary we understand that the countries and peoples of the region are still in transition and will be for decades to come. Great strides have been made by many former communist countries in building democratic societies and market economies. Poland, Hungary and the Czech Republic are our NATO allies and are actively pursuing admission to the European Union. Other central and eastern European countries are taking steps to join NATO and the EU. Yet, progress has been uneven and much remains to be done.

It is critical that the United States remain engaged with the peoples and governments of Europe and the countries which emerged from the former Soviet Union, especially Russia, during this difficult period. I agree with President Clinton when he said that we must ''reaffirm our determination to finish the job—to complete a Europe whole, free, democratic, and at peace, for the first time in all of history.'' It is in our strategic and national interest to do so.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 223.

The question was taken.

Mr. LANTOS. 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.

CONFERENCE REPORT ON H.R. 1554, INTELLECTUAL PROPERTY AND COMMUNICATIONS OMNIBUS REFORM ACT OF 1999

Mr. TAUZIN (during debate on H. Con. Res. 223) submitted the following conference report and statement on the bill (H.R. 1554) 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:

CONFERENCE REPORT (H. REPT. 106–464)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1554), 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, 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 ''Intellectual Property and Communications Omnibus Reform Act of 1999''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

TITLE I—SATELLITE HOME VIEWER IMPROVEMENT

SEC. 1001. SHORT TITLE.

This title may be cited as the ''Satellite Home Viewer Improvement Act of 1999''.

SEC. 1002. LIMITATIONS ON EXCLUSIVE RIGHTS; SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS WITHIN LOCAL MARKETS.

(a) IN GENERAL.—Chapter 1 of title 17, United States Code, is amended by adding after section 121 the following new section:

''§ 122. Limitations on exclusive rights; secondary transmissions by satellite carriers within local markets

''(a) SECONDARY TRANSMISSIONS OF TELEVISION BROADCAST STATIONS BY SATELLITE CARRIERS.—A secondary transmission of a performance or display of a work embodied in a primary transmission of a television broadcast station into the station's local market shall be subject to statutory licensing under this section if—

''(1) the secondary transmission is made by a satellite carrier to the public;

''(2) with regard to secondary transmissions, the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals; and

''(3) the satellite carrier makes a direct or indirect charge for the secondary transmission to—

''(A) each subscriber receiving the secondary transmission; or

''(B) a distributor that has contracted with the satellite carrier for direct or indirect delivery of the secondary transmission to the public.

''(b) REPORTING REQUIREMENTS.—

''(1) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station under subsection (a) shall, within 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station a list identifying (by name in alphabetical order and street address, including county and zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission under subsection (a).

''(2) SUBSEQUENT LISTS.—After the list is submitted under paragraph (1), the satellite carrier shall, on the 15th of each month, submit to the network a list identifying (by name in alphabetical order and street address, including county and zip code) any subscribers who have been added or dropped as subscribers since the last submission under this subsection.

''(3) USE OF SUBSCRIBER INFORMATION.—Subscriber information submitted by a satellite carrier under this subsection may be used only for the purposes of monitoring compliance by the satellite carrier with this section.

''(4) REQUIREMENTS OF NETWORKS.—The submission requirements of this subsection shall apply to a satellite carrier only if the network to which the submissions are to be made places on file with the Register of Copyrights a document identifying the name and address of the person to whom such submissions are to be made. The Register of Copyrights shall maintain for public inspection a file of all such documents.

''(c) NO ROYALTY FEE REQUIRED.—A satellite carrier whose secondary transmissions are subject to statutory licensing under subsection (a) shall have no royalty obligation for such secondary transmissions.

''(d) NONCOMPLIANCE WITH REPORTING AND REGULATORY REQUIREMENTS.—Notwithstanding subsection (a), the willful or repeated secondary transmission to the public by a satellite carrier into the local market of a television broadcast station of a primary transmission embodying a performance or display of a work made by that television broadcast station is actionable as an act of infringement under section 501, and is fully subject to the remedies provided under sections 502 through 506 and 509, if the satellite carrier has not complied with the reporting requirements of subsection (b) or with the rules, regulations, and authorizations of the Federal Communications Commission concerning the carriage of television broadcast signals.

''(e) WILLFUL ALTERATIONS.—Notwithstanding subsection (a), the secondary transmission to the public by a satellite carrier into the local market of a television broadcast station of a performance or display of a work embodied in a primary transmission made by that television broadcast station is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, if the content of the particular program in which the performance or display is embodied, or any commercial advertising or station announcement transmitted by the primary transmitter during, or immediately before or after, the transmission of such program, is in any way willfully altered by the satellite carrier through changes, deletions, or additions, or is combined with programming from any other broadcast signal.

''(f) VIOLATION OF TERRITORIAL RESTRICTIONS ON STATUTORY LICENSE FOR TELEVISION BROADCAST STATIONS.—

''(1) INDIVIDUAL VIOLATIONS.—The willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission embodying a performance or display of a work made by a television broadcast station to a subscriber who does not reside in that station's local market, and is not subject to statutory licensing under section 119 or a private licensing agreement, is actionable as an act of infringement under section 501 and is fully subject to the remedies provided by sections 502 through 506 and 509, except that—

''(A) no damages shall be awarded for such act of infringement if the satellite carrier took corrective action by promptly withdrawing service from the ineligible subscriber; and

''(B) any statutory damages shall not exceed $5 for such subscriber for each month during which the violation occurred.

''(2) PATTERN OF VIOLATIONS.—If a satellite carrier engages in a willful or repeated pattern or practice of secondarily transmitting to the public a primary transmission embodying a performance or display of a work made by a television broadcast station to subscribers who do not reside in that station's local market, and are not subject to statutory licensing under section 119 or a private licensing agreement, then in addition to the remedies under paragraph (1)—

''(A) if the pattern or practice has been carried out on a substantially nationwide basis, the court—

''(i) shall order a permanent injunction barring the secondary transmission by the satellite carrier of the primary transmissions of that television broadcast station (and if such television broadcast station is a network station, all other television broadcast stations affiliated with such network); and

''(ii) may order statutory damages not exceeding $250,000 for each 6-month period during which the pattern or practice was carried out; and

''(B) if the pattern or practice has been carried out on a local or regional basis with respect to more than 1 television broadcast station, the court—

''(i) shall order a permanent injunction barring the secondary transmission in that locality or region by the satellite carrier of the primary transmissions of any television broadcast station; and

''(ii) may order statutory damages not exceeding $250,000 for each 6-month period during which the pattern or practice was carried out.

''(g) BURDEN OF PROOF.—In any action brought under subsection (f), the satellite carrier shall have the burden of proving that its secondary transmission of a primary transmission by a television broadcast station is made only to subscribers located within that station's local market or subscribers being served in compliance with section 119 or a private licensing agreement.

''(h) GEOGRAPHIC LIMITATIONS ON SECONDARY TRANSMISSIONS.—The statutory license created by this section shall apply to secondary transmissions to locations in the United States.

''(i) EXCLUSIVITY WITH RESPECT TO SECONDARY TRANSMISSIONS OF BROADCAST STATIONS BY SATELLITE TO MEMBERS OF THE PUBLIC.—No provision of section 111 or any other law (other than this section and section 119) shall be construed to contain any authorization, exemption, or license through which secondary transmissions by satellite carriers of programming contained in a primary transmission made by a television broadcast station may be made without obtaining the consent of the copyright owner.

''(j) DEFINITIONS.—In this section—

''(1) DISTRIBUTOR.—The term 'distributor' means an entity which contracts to distribute secondary transmissions from a satellite carrier and, either as a single channel or in a package with other programming, provides the secondary transmission either directly to individual subscribers or indirectly through other program distribution entities.

''(2) LOCAL MARKET.—

''(A) IN GENERAL.—The term 'local market', in the case of both commercial and noncommercial television broadcast stations, means the designated market area in which a station is located, and—

''(i) in the case of a commercial television broadcast station, all commercial television broadcast stations licensed to a community within the same designated market area are within the same local market; and

''(ii) in the case of a noncommercial educational television broadcast station, the market includes any station that is licensed to a community within the same designated market area as the noncommercial educational television broadcast station.

''(B) COUNTY OF LICENSE.—In addition to the area described in subparagraph (A), a station's local market includes the county in which the station's community of license is located.

''(C) DESIGNATED MARKET AREA.—For purposes of subparagraph (A), the term 'designated market area' means a designated market area, as determined by Nielsen Media Research and published in the 1999–2000 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication.

''(3) NETWORK STATION; SATELLITE CARRIER; SECONDARY TRANSMISSION.—The terms 'network station', 'satellite carrier' and 'secondary transmission' have the meanings given such terms under section 119(d).

''(4) SUBSCRIBER.—The term 'subscriber' means a person who receives a secondary transmission service from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

''(5) TELEVISION BROADCAST STATION.—The term 'television broadcast station'—

''(A) means an over-the-air, commercial or noncommercial television broadcast station licensed by the Federal Communications Commission under subpart E of part 73 of title 47, Code of Federal Regulations, except that such term does not include a low-power or translator television station; and

''(B) includes a television broadcast station licensed by an appropriate governmental authority of Canada or Mexico if the station broadcasts primarily in the English language and is a network station as defined in section 119(d)(2)(A).''.

(b) INFRINGEMENT OF COPYRIGHT.—Section 501 of title 17, United States Code, is amended by adding at the end the following new subsection:

''(f)(1) With respect to any secondary transmission that is made by a satellite carrier of a performance or display of a work embodied in a primary transmission and is actionable as an act of infringement under section 122, a television broadcast station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local market of that station.

''(2) A television broadcast station may file a civil action against any satellite carrier that has refused to carry television broadcast signals, as required under section 122(a)(2), to enforce that television broadcast station's rights under section 338(a) of the Communications Act of 1934.''.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 1 of title 17, United States Code, is amended by adding after the item relating to section 121 the following:

''122. Limitations on exclusive rights; secondary transmissions by satellite carriers within local market.''.

SEC. 1003. EXTENSION OF EFFECT OF AMENDMENTS TO SECTION 119 OF TITLE 17, UNITED STATES CODE.

Section 4(a) of the Satellite Home Viewer Act of 1994 (17 U.S.C. 119 note; Public Law 103–369; 108 Stat. 3481) is amended by striking ''December 31, 1999'' and inserting ''December 31, 2004''.

SEC. 1004. COMPUTATION OF ROYALTY FEES FOR SATELLITE CARRIERS.

Section 119(c) of title 17, United States Code, is amended by adding at the end the following new paragraph:

''(4) REDUCTION.—

''(A) SUPERSTATION.—The rate of the royalty fee in effect on January 1, 1998, payable in each case under subsection (b)(1)(B)(i) shall be reduced by 30 percent.

''(B) NETWORK AND PUBLIC BROADCASTING SATELLITE FEED.—The rate of the royalty fee in effect on January 1, 1998, payable under subsection (b)(1)(B)(ii) shall be reduced by 45 percent.

''(5) PUBLIC BROADCASTING SERVICE AS AGENT.—For purposes of section 802, with respect to royalty fees paid by satellite carriers for retransmitting the Public Broadcasting Service satellite feed, the Public Broadcasting Service shall be the agent for all public television copyright claimants and all Public Broadcasting Service member stations.''.

SEC. 1005. DISTANT SIGNAL ELIGIBILITY FOR CONSUMERS.

(a) UNSERVED HOUSEHOLD.—

(1) IN GENERAL.—Section 119(d) of title 17, United States Code, is amended by striking paragraph (10) and inserting the following:

''(10) UNSERVED HOUSEHOLD.—The term 'unserved household', with respect to a particular television network, means a household that—

''(A) cannot receive, through the use of a conventional, stationary, outdoor rooftop receiving antenna, an over-the-air signal of a primary network station affiliated with that network of Grade B intensity as defined by the Federal Communications Commission under section 73.683(a) of title 47 of the Code of Federal Regulations, as in effect on January 1, 1999;

''(B) is subject to a waiver granted under regulations established under section 339(c)(2) of the Communications Act of 1934;

''(C) is a subscriber to whom subsection (e) applies;

''(D) is a subscriber to whom subsection (a)(11) applies; or

''(E) is a subscriber to whom the exemption under subsection (a)(2)(B)(iii) applies.''.

(2) CONFORMING AMENDMENT.—Section 119(a)(2)(B) of title 17, United States Code, is amended to read as follows:

''(B) SECONDARY TRANSMISSIONS TO UNSERVED HOUSEHOLDS.—

''(i) IN GENERAL.—The statutory license provided for in subparagraph (A) shall be limited to secondary transmissions of the signals of no more than 2 network stations in a single day for each television network to persons who reside in unserved households.

''(ii) ACCURATE DETERMINATIONS OF ELIGIBILITY.—

''(I) ACCURATE PREDICTIVE MODEL.—In determining presumptively whether a person resides in an unserved household under subsection (d)(10)(A), a court shall rely on the Individual Location Longley-Rice model set forth by the Federal Communications Commission in Docket No. 98–201, as that model may be amended by the Commission over time under section 339(c)(3) of the Communications Act of 1934 to increase the accuracy of that model.

''(II) ACCURATE MEASUREMENTS.—For purposes of site measurements to determine whether a person resides in an unserved household under subsection (d)(10)(A), a court shall rely on section 339(c)(4) of the Communications Act of 1934.

''(iii) C-BAND EXEMPTION TO UNSERVED HOUSEHOLDS.—

''(I) IN GENERAL.—The limitations of clause (i) shall not apply to any secondary transmissions by C-band services of network stations that a subscriber to C-band service received before any termination of such secondary transmissions before October 31, 1999.

''(II) DEFINITION.—In this clause the term 'C-band service' means a service that is licensed by the Federal Communications Commission and operates in the Fixed Satellite Service under part 25 of title 47 of the Code of Federal Regulations.''.

(b) EXCEPTION TO LIMITATION ON SECONDARY TRANSMISSIONS.—Section 119(a)(5) of title 17, United States Code, is amended by adding at the end the following:

''(E) EXCEPTION.—The secondary transmission by a satellite carrier of a performance or display of a work embodied in a primary transmission made by a network station to subscribers who do not reside in unserved households shall not be an act of infringement if—

''(i) the station on May 1, 1991, was retransmitted by a satellite carrier and was not on that date owned or operated by or affiliated with a television network that offered interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more States;

''(ii) as of July 1, 1998, such station was retransmitted by a satellite carrier under the statutory license of this section; and

''(iii) the station is not owned or operated by or affiliated with a television network that, as of January 1, 1995, offered interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more States.''.

(c) MORATORIUM ON COPYRIGHT LIABILITY.—Section 119(e) of title 17, United States Code, is amended to read as follows:

''(e) MORATORIUM ON COPYRIGHT LIABILITY.—Until December 31, 2004, a subscriber who does

not receive a signal of grade A intensity (as defined in the regulations of the Federal Communications Commission under section 73.683(a) of title 47 of the Code of Federal Regulations, as in effect on January 1, 1999, or predicted by the Federal Communications Commission using the Individual Location Longley-Rice methodology described by the Federal Communications Commission in Docket 98–201) of a local network television broadcast station shall remain eligible to receive signals of network stations affiliated with the same network, if that subscriber had satellite service of such network signal terminated after July 11, 1998, and before October 31, 1999, as required by this section, or received such service on October 31, 1999.''.

(d) RECREATIONAL VEHICLE AND COMMERCIAL TRUCK EXEMPTION.—Section 119(a) of title 17, United States Code, is amended by adding at the end the following:

''(11) SERVICE TO RECREATIONAL VEHICLES AND COMMERCIAL TRUCKS.—

''(A) EXEMPTION.—

''(i) IN GENERAL.—For purposes of this subsection, and subject to clauses (ii) and (iii), the term 'unserved household' shall include—

''(I) recreational vehicles as defined in regulations of the Secretary of Housing and Urban Development under section 3282.8 of title 24 of the Code of Federal Regulations; and

''(II) commercial trucks that qualify as commercial motor vehicles under regulations of the Secretary of Transportation under section 383.5 of title 49 of the Code of Federal Regulations.

''(ii) LIMITATION.—Clause (i) shall apply only to a recreational vehicle or commercial truck if any satellite carrier that proposes to make a secondary transmission of a network station to the operator of such a recreational vehicle or commercial truck complies with the documentation requirements under subparagraphs (B) and (C).

''(iii) EXCLUSION.—For purposes of this subparagraph, the terms 'recreational vehicle' and 'commercial truck' shall not include any fixed dwelling, whether a mobile home or otherwise.

''(B) DOCUMENTATION REQUIREMENTS.—A recreational vehicle or commercial truck shall be deemed to be an unserved household beginning 10 days after the relevant satellite carrier provides to the network that owns or is affiliated with the network station that will be secondarily transmitted to the recreational vehicle or commercial truck the following documents:

''(i) DECLARATION.—A signed declaration by the operator of the recreational vehicle or commercial truck that the satellite dish is permanently attached to the recreational vehicle or commercial truck, and will not be used to receive satellite programming at any fixed dwelling.

''(ii) REGISTRATION.—In the case of a recreational vehicle, a copy of the current State vehicle registration for the recreational vehicle.

''(iii) REGISTRATION AND LICENSE.—In the case of a commercial truck, a copy of—

''(I) the current State vehicle registration for the truck; and

''(II) a copy of a valid, current commercial driver's license, as defined in regulations of the Secretary of Transportation under section 383 of title 49 of the Code of Federal Regulations, issued to the operator.

''(C) UPDATED DOCUMENTATION REQUIREMENTS.—If a satellite carrier wishes to continue to make secondary transmissions to a recreational vehicle or commercial truck for more than a 2-year period, that carrier shall provide each network, upon request, with updated documentation in the form described under subparagraph (B) during the 90 days before expiration of that 2-year period.''.

(e) EXCEPTION TO SATELLITE CARRIER DEFINITION.—Section 119(d)(6) of title 17, United States Code, is amended by inserting before the period '', or provides a digital online communication service''.

(f) CONFORMING AMENDMENT.—Section 119(d)(11) of title 17, United States Code, is amended to read as follows:

''(11) LOCAL MARKET.—The term 'local market' has the meaning given such term under section 122(j).''.

SEC. 1006. PUBLIC BROADCASTING SERVICE SATELLITE FEED.

(a) SECONDARY TRANSMISSIONS.—Section 119(a)(1) of title 17, United States Code, is amended—

(1) by striking the paragraph heading and inserting ''(1) SUPERSTATIONS AND PBS SATELLITE FEED.—'';

(2) by inserting ''or by the Public Broadcasting Service satellite feed'' after ''superstation''; and

(3) by adding at the end the following: ''In the case of the Public Broadcasting Service satellite feed, the statutory license shall be effective until January 1, 2002.''.

(b) ROYALTY FEES.—Section 119(b)(1)(B)(iii) of title 17, United States Code, is amended by inserting ''or the Public Broadcasting Service satellite feed'' after ''network station''.

(c) DEFINITIONS.—Section 119(d) of title 17, United States Code, is amended—

(1) by amending paragraph (9) to read as follows:

''(9) SUPERSTATION.—The term 'superstation'—

''(A) means a television broadcast station, other than a network station, licensed by the Federal Communications Commission that is secondarily transmitted by a satellite carrier; and

''(B) except for purposes of computing the royalty fee, includes the Public Broadcasting Service satellite feed.''; and

(2) by adding at the end the following:

''(12) PUBLIC BROADCASTING SERVICE SATELLITE FEED.—The term 'Public Broadcasting Service satellite feed' means the national satellite feed distributed and designated for purposes of this section by the Public Broadcasting Service consisting of educational and informational programming intended for private home viewing, to which the Public Broadcasting Service holds national terrestrial broadcast rights.''.

SEC. 1007. APPLICATION OF FEDERAL COMMUNICATIONS COMMISSION REGULATIONS.

Section 119(a) of title 17, United States Code, is amended—

(1) in paragraph (1), by inserting ''with regard to secondary transmissions the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals,'' after ''satellite carrier to the public for private home viewing,'';

(2) in paragraph (2), by inserting ''with regard to secondary transmissions the satellite carrier is in compliance with the rules, regulations, or authorizations of the Federal Communications Commission governing the carriage of television broadcast station signals,'' after ''satellite carrier to the public for private home viewing,''; and

(3) by adding at the end of such subsection (as amended by section 1005(e) of this Act) the following new paragraph:

''(12) STATUTORY LICENSE CONTINGENT ON COMPLIANCE WITH FCC RULES AND REMEDIAL STEPS.—Notwithstanding any other provision of this section, the willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission embodying a performance or display of a work made by a broadcast station licensed by the Federal Communications Commission is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if, at the time of such transmission, the satellite carrier is not in compliance with the rules, regulations, and authorizations of the Federal Communications Commission concerning the carriage of television broadcast station signals.''.

SEC. 1008. RULES FOR SATELLITE CARRIERS RETRANSMITTING TELEVISION BROADCAST SIGNALS.

(a) AMENDMENTS TO COMMUNICATIONS ACT OF 1934.—Title III of the Communications Act of 1934 is amended by inserting after section 337 (47 U.S.C. 337) the following new sections:

''SEC. 338. CARRIAGE OF LOCAL TELEVISION SIGNALS BY SATELLITE CARRIERS.

''(a) CARRIAGE OBLIGATIONS.—

''(1) IN GENERAL.—Subject to the limitations of paragraph (2), each satellite carrier providing, under section 122 of title 17, United States Code, secondary transmissions to subscribers located within the local market of a television broadcast station of a primary transmission made by that station shall carry upon request the signals of all television broadcast stations located within that local market, subject to section 325(b).

''(2) REMEDIES FOR FAILURE TO CARRY.—The remedies for any failure to meet the obligations under this subsection shall be available exclusively under section 501(f) of title 17, United States Code.

''(3) EFFECTIVE DATE.—No satellite carrier shall be required to carry local television broadcast stations under paragraph (1) until January 1, 2002.

''(b) GOOD SIGNAL REQUIRED.—

''(1) COSTS.—A television broadcast station asserting its right to carriage under subsection (a) shall be required to bear the costs associated with delivering a good quality signal to the designated local receive facility of the satellite carrier or to another facility that is acceptable to at least one-half the stations asserting the right to carriage in the local market.

''(2) REGULATIONS.—The regulations issued under subsection (g) shall set forth the obligations necessary to carry out this subsection.

''(c) DUPLICATION NOT REQUIRED.—

''(1) COMMERCIAL STATIONS.—Notwithstanding subsection (a), a satellite carrier shall not be required to carry upon request the signal of any local commercial television broadcast station that substantially duplicates the signal of another local commercial television broadcast station which is secondarily transmitted by the satellite carrier within the same local market, or to carry upon request the signals of more than 1 local commercial television broadcast station in a single local market that is affiliated with a particular television network unless such stations are licensed to communities in different States.

''(2) NONCOMMERCIAL STATIONS.—The Commission shall prescribe regulations limiting the carriage requirements under subsection (a) of satellite carriers with respect to the carriage of multiple local noncommercial television broadcast stations. To the extent possible, such regulations shall provide the same degree of carriage by satellite carriers of such multiple stations as is provided by cable systems under section 615.

''(d) CHANNEL POSITIONING.—No satellite carrier shall be required to provide the signal of a local television broadcast station to subscribers in that station's local market on any particular channel number or to provide the signals in any particular order, except that the satellite carrier shall retransmit the signal of the local television broadcast stations to subscribers in the stations' local market on contiguous channels and provide access to such station's signals at a nondiscriminatory price and in a nondiscriminatory manner on any navigational device, on-screen program guide, or menu.

''(e) COMPENSATION FOR CARRIAGE.—A satellite carrier shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local television broadcast stations in fulfillment of the requirements of this section or for channel positioning rights provided to such stations under this section, except that any such station may be required to bear the costs associated with delivering a good quality signal to the local receive facility of the satellite carrier.

''(f) REMEDIES.—

''(1) COMPLAINTS BY BROADCAST STATIONS.—Whenever a local television broadcast station believes that a satellite carrier has failed to meet its obligations under subsections (b) through (e) of this section, such station shall notify the carrier, in writing, of the alleged failure and identify its reasons for believing that the satellite carrier failed to comply with such obligations. The satellite carrier shall, within 30 days after such written notification, respond in writing to such notification and comply with such obligations or state its reasons for believing that it is in compliance with such obligations. A local television broadcast station that disputes a response by a satellite carrier that it is in compliance with such obligations may obtain review of such denial or response by filing a complaint with the Commission. Such complaint shall allege the manner in which such satellite carrier has failed to meet its obligations and the basis for such allegations.

''(2) OPPORTUNITY TO RESPOND.—The Commission shall afford the satellite carrier against which a complaint is filed under paragraph (1) an opportunity to present data and arguments to establish that there has been no failure to meet its obligations under this section.

''(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed under paragraph (1), the Commission shall determine whether the satellite carrier has met its obligations under subsections (b) through (e). If the Commission determines that the satellite carrier has failed to meet such obligations, the Commission shall order the satellite carrier to take appropriate remedial action. If the Commission determines that the satellite carrier has fully met the requirements of such subsections, the Commission shall dismiss the complaint.

''(g) REGULATIONS BY COMMISSION.—Within 1 year after the date of enactment of this section, the Commission shall issue regulations implementing this section following a rulemaking proceeding. The regulations prescribed under this section shall include requirements on satellite carriers that are comparable to the requirements on cable operators under sections 614(b) (3) and (4) and 615(g)(1) and (2).

''(h) DEFINITIONS.—As used in this section:

''(1) DISTRIBUTOR.—The term 'distributor' means an entity which contracts to distribute secondary transmissions from a satellite carrier and, either as a single channel or in a package with other programming, provides the secondary transmission either directly to individual subscribers or indirectly through other program distribution entities.

''(2) LOCAL RECEIVE FACILITY.—The term 'local receive facility' means the reception point in each local market which a satellite carrier designates for delivery of the signal of the station for purposes of retransmission.

''(3) LOCAL MARKET.—The term 'local market' has the meaning given that term under section 122(j) of title 17, United States Code.

''(4) SATELLITE CARRIER.—The term 'satellite carrier' has the meaning given such term under section 119(d) of title 17, United States Code.

''(5) SECONDARY TRANSMISSION.—The term 'secondary transmission' has the meaning given such term in section 119(d) of title 17, United States Code.

''(6) SUBSCRIBER.—The term 'subscriber' has the meaning given that term under section 122(j) of title 17, United States Code.

''(7) TELEVISION BROADCAST STATION.—The term 'television broadcast station' has the meaning given such term in section 325(b)(7).

''SEC. 339. CARRIAGE OF DISTANT TELEVISION STATIONS BY SATELLITE CARRIERS.

''(a) PROVISIONS RELATING TO CARRIAGE OF DISTANT SIGNALS.—

''(1) CARRIAGE PERMITTED.—

''(A) IN GENERAL.—Subject to section 119 of title 17, United States Code, any satellite carrier shall be permitted to provide the signals of no more than 2 network stations in a single day for each television network to any household not located within the local markets of those network stations.

''(B) ADDITIONAL SERVICE.—In addition to signals provided under subparagraph (A), any satellite carrier may also provide service under the statutory license of section 122 of title 17, United States Code, to the local market within which such household is located. The service provided under section 122 of such title may be in addition to the 2 signals provided under section 119 of such title.

''(2) PENALTY FOR VIOLATION.—Any satellite carrier that knowingly and willfully provides the signals of television stations to subscribers in violation of this subsection shall be liable for a forfeiture penalty under section 503 in the amount of $50,000 for each violation or each day of a continuing violation.

''(b) EXTENSION OF NETWORK NONDUPLICATION, SYNDICATED EXCLUSIVITY, AND SPORTS BLACKOUT TO SATELLITE RETRANSMISSION.—

''(1) EXTENSION OF PROTECTIONS.—Within 45 days after the date of enactment of the Satellite Home Viewer Improvement Act of 1999, the Commission shall commence a single rulemaking proceeding to establish regulations that—

''(A) apply network nonduplication protection (47 C.F.R. 76.92) syndicated exclusivity protection (47 C.F.R. 76.151), and sports blackout protection (47 C.F.R. 76.67) to the retransmission of the signals of nationally distributed superstations by satellite carriers to subscribers; and

''(B) to the extent technically feasible and not economically prohibitive, apply sports blackout protection (47 C.F.R. 76.67) to the retransmission of the signals of network stations by satellite carriers to subscribers.

''(2) DEADLINE FOR ACTION.—The Commission shall complete all actions necessary to prescribe regulations required by this section so that the regulations shall become effective within 1 year after such date of enactment.

''(c) ELIGIBILITY FOR RETRANSMISSION.—

''(1) SIGNAL STANDARD FOR SATELLITE CARRIER PURPOSES.—For the purposes of identifying an unserved household under section 119(d)(10) of title 17, United States Code, within 1 year after the date of enactment of the Satellite Home Viewer Improvement Act of 1999, the Commission shall conclude an inquiry to evaluate all possible standards and factors for determining eligibility for retransmissions of the signals of network stations, and, if appropriate—

''(A) recommend modifications to the Grade B intensity standard for analog signals set forth in section 73.683(a) of its regulations (47 C.F.R. 73.683(a)), or recommend alternative standards or factors for purposes of determining such eligibility; and

''(B) make a further recommendation relating to an appropriate standard for digital signals.

''(2) WAIVERS.—A subscriber who is denied the retransmission of a signal of a network station under section 119 of title 17, United States Code, may request a waiver from such denial by submitting a request, through such subscriber's satellite carrier, to the network station asserting that the retransmission is prohibited. The network station shall accept or reject a subscriber's request for a waiver within 30 days after receipt of the request. The subscriber shall be permitted to receive such retransmission under section 119(d)(10)(B) of title 17, United States Code, if such station agrees to the waiver request and files with the satellite carrier a written waiver with respect to that subscriber allowing the subscriber to receive such retransmission. If a television network station fails to accept or reject a subscriber's request for a waiver within the 30-day period after receipt of the request, that station shall be deemed to agree to the waiver request and have filed such written waiver.

''(3) ESTABLISHMENT OF IMPROVED PREDICTIVE MODEL REQUIRED.—Within 180 days after the date of enactment of the Satellite Home Viewer Improvement Act of 1999, the Commission shall take all actions necessary, including any reconsideration, to develop and prescribe by rule a point-to-point predictive model for reliably and presumptively determining the ability of individual locations to receive signals in accordance with the signal intensity standard in effect under section 119(d)(10)(A) of title 17, United States Code. In prescribing such model, the Commission shall rely on the Individual Location Longley-Rice model set forth by the Federal Communications Commission in Docket 98–201 and ensure that such model takes into account terrain, building structures, and other land cover variations. The Commission shall establish procedures for the continued refinement in the application of the model by the use of additional data as it becomes available.

''(4) OBJECTIVE VERIFICATION.—

''(A) IN GENERAL.—If a subscriber's request for a waiver under paragraph (2) is rejected and the subscriber submits to the subscriber's satellite carrier a request for a test verifying the subscriber's inability to receive a signal that meets the signal intensity standard in effect under section 119(d)(10)(A) of title 17, United States Code, the satellite carrier and the network station or stations asserting that the retransmission is prohibited with respect to that subscriber shall select a qualified and independent person to conduct a test in accordance with section 73.686(d) of its regulations (47 C.F.R. 73.686(d)), or any successor regulation. Such test shall be conducted within 30 days after the date the subscriber submits a request for the test. If the written findings and conclusions of a test conducted in accordance with such section (or any successor regulation) demonstrate that the subscriber does not receive a signal that meets or exceeds the signal intensity standard in effect under section 119(d)(10)(A) of title 17, United States Code, the subscriber shall not be denied the retransmission of a signal of a network station under section 119 of title 17, United States Code.

''(B) DESIGNATION OF TESTER AND ALLOCATION OF COSTS.—If the satellite carrier and the network station or stations asserting that the retransmission is prohibited are unable to agree on such a person to conduct the test, the person shall be designated by an independent and neutral entity designated by the Commission by rule. Unless the satellite carrier and the network station or stations otherwise agree, the costs of conducting the test under this paragraph shall be borne by the satellite carrier, if the station's signal meets or exceeds the signal intensity standard in effect under section 119(d)(10)(A) of title 17, United States Code, or by the network station, if its signal fails to meet or exceed such standard.

''(C) AVOIDANCE OF UNDUE BURDEN.— Commission regulations prescribed under this paragraph shall seek to avoid any undue burden on any party.

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

''(1) LOCAL MARKET.—The term 'local market' has the meaning given that term under section 122(j) of title 17, United States Code.

''(2) NATIONALLY DISTRIBUTED SUPERSTATION.—The term 'nationally distributed superstation' means a television broadcast station, licensed by the Commission, that—

''(A) is not owned or operated by or affiliated with a television network that, as of January 1, 1995, offered interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated television licensees in 10 or more States;

''(B) on May 1, 1991, was retransmitted by a satellite carrier and was not a network station at that time; and

''(C) was, as of July 1, 1998, retransmitted by a satellite carrier under the statutory license of section 119 of title 17, United States Code.

''(3) NETWORK STATION.—The term 'network station' has the meaning given such term under section 119(d) of title 17, United States Code.

''(4) SATELLITE CARRIER.—The term 'satellite carrier' has the meaning given such term under section 119(d) of title 17, United States Code.

''(5) TELEVISION NETWORK.—The term 'television network' means a television network in the United States which offers an interconnected program service on a regular basis for 15 or more hours per week to at least 25 affiliated broadcast stations in 10 or more States.''.

(b) NETWORK STATION DEFINITION.—Section 119(d)(2) of title 17, United States Code, is amended—

(1) in subparagraph (B) by striking the period and inserting a semicolon; and

(2) by adding after subparagraph (B) the following:

''except that the term does not include the signal of the Alaska Rural Communications Service, or any successor entity to that service.''.

SEC. 1009. RETRANSMISSION CONSENT.

(a) IN GENERAL.—Section 325(b) of the Communications Act of 1934 (47 U.S.C. 325(b)) is amended—

(1) by amending paragraphs (1) and (2) to read as follows:

''(b)(1) No cable system or other multichannel video programming distributor shall retransmit the signal of a broadcasting station, or any part thereof, except—

''(A) with the express authority of the originating station;

''(B) under section 614, in the case of a station electing, in accordance with this subsection, to assert the right to carriage under such section; or

''(C) under section 338, in the case of a station electing, in accordance with this subsection, to assert the right to carriage under such section.

''(2) This subsection shall not apply—

''(A) to retransmission of the signal of a noncommercial television broadcast station;

''(B) to retransmission of the signal of a television broadcast station outside the station's local market by a satellite carrier directly to its subscribers, if—

''(i) such station was a superstation on May 1, 1991;

''(ii) as of July 1, 1998, such station was retransmitted by a satellite carrier under the statutory license of section 119 of title 17, United States Code; and

''(iii) the satellite carrier complies with any network nonduplication, syndicated exclusivity, and sports blackout rules adopted by the Commission under section 339(b) of this Act;

''(C) until December 31, 2004, to retransmission of the signals of network stations directly to a home satellite antenna, if the subscriber receiving the signal—

''(i) is located in an area outside the local market of such stations; and

''(ii) resides in an unserved household;

''(D) to retransmission by a cable operator or other multichannel video provider, other than a satellite carrier, of the signal of a television broadcast station outside the station's local market if such signal was obtained from a satellite carrier and—

''(i) the originating station was a superstation on May 1, 1991; and

''(ii) as of July 1, 1998, such station was retransmitted by a satellite carrier under the statutory license of section 119 of title 17, United States Code; or

''(E) during the 6-month period beginning on the date of enactment of the Satellite Home Viewer Improvement Act of 1999, to the retransmission of the signal of a television broadcast station within the station's local market by a satellite carrier directly to its subscribers under the statutory license of section 122 of title 17, United States Code.

For purposes of this paragraph, the terms 'satellite carrier' and 'superstation' have the meanings given those terms, respectively, in section 119(d) of title 17, United States Code, as in effect on the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the term 'unserved household' has the meaning given that term under section 119(d) of such title, and the term 'local market' has the meaning given that term in section 122(j) of such title.'';

(2) by adding at the end of paragraph (3) the following new subparagraph:

''(C) Within 45 days after the date of enactment of the Satellite Home Viewer Improvement Act of 1999, the Commission shall commence a rulemaking proceeding to revise the regulations governing the exercise by television broadcast stations of the right to grant retransmission consent under this subsection, and such other regulations as are necessary to administer the limitations contained in paragraph (2). The Commission shall complete all actions necessary to prescribe such regulations within 1 year after such date of enactment. Such regulations shall—

''(i) establish election time periods that correspond with those regulations adopted under subparagraph (B) of this paragraph; and

''(ii) until January 1, 2006, prohibit a television broadcast station that provides retransmission consent from engaging in exclusive contracts for carriage or failing to negotiate in good faith, and it shall not be a failure to negotiate in good faith if the television broadcast station enters into retransmission consent agreements containing different terms and conditions, including price terms, with different multichannel video programming distributors if such different terms and conditions are based on competitive marketplace considerations.'';

(3) in paragraph (4), by adding at the end the following new sentence: ''If an originating television station elects under paragraph (3)(C) to exercise its right to grant retransmission consent under this subsection with respect to a satellite carrier, section 338 shall not apply to the carriage of the signal of such station by such satellite carrier.'';

(4) in paragraph (5), by striking ''614 or 615'' and inserting ''338, 614, or 615''; and

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

''(7) For purposes of this subsection, the term—

''(A) 'network station' has the meaning given such term under section 119(d) of title 17, United States Code; and

''(B) 'television broadcast station' means an over-the-air commercial or noncommercial television broadcast station licensed by the Commission under subpart E of part 73 of title 47, Code of Federal Regulations, except that such term does not include a low-power or translator television station.''.

(b) ENFORCEMENT PROVISIONS FOR CONSENT FOR RETRANSMISSIONS.—Section 325 of the Communications Act of 1934 (47 U.S.C. 325) is amended by adding at the end the following new subsection:

''(e) ENFORCEMENT PROCEEDINGS AGAINST SATELLITE CARRIERS CONCERNING RETRANSMISSIONS OF TELEVISION BROADCAST STATIONS IN THE RESPECTIVE LOCAL MARKETS OF SUCH CARRIERS.—

''(1) COMPLAINTS BY TELEVISION BROADCAST STATIONS.—If after the expiration of the 6-month period described under subsection (b)(2)(E) a television broadcast station believes that a satellite carrier has retransmitted its signal to any person in the local market of such station in violation of subsection (b)(1), the station may file with the Commission a complaint providing—

''(A) the name, address, and call letters of the station;

''(B) the name and address of the satellite carrier;

''(C) the dates on which the alleged retransmission occurred;

''(D) the street address of at least 1 person in the local market of the station to whom the alleged retransmission was made;

''(E) a statement that the retransmission was not expressly authorized by the television broadcast station; and

''(F) the name and address of counsel for the station.

''(2) SERVICE OF COMPLAINTS ON SATELLITE CARRIERS.—For purposes of any proceeding under this subsection, any satellite carrier that retransmits the signal of any broadcast station shall be deemed to designate the Secretary of the Commission as its agent for service of process. A television broadcast station may serve a satellite carrier with a complaint concerning an alleged violation of subsection (b)(1) through retransmission of a station within the local market of such station by filing the original and 2 copies of the complaint with the Secretary of the Commission and serving a copy of the complaint on the satellite carrier by means of 2 commonly used overnight delivery services, each addressed to the chief executive officer of the satellite carrier at its principal place of business, and each marked 'URGENT LITIGATION MATTER' on the outer packaging. Service shall be deemed complete 1 business day after a copy of the complaint is provided to the delivery services for overnight delivery. On receipt of a complaint filed by a television broadcast station under this subsection, the Secretary of the Commission shall send the original complaint by United States mail, postage prepaid, receipt requested, addressed to the chief executive officer of the satellite carrier at its principal place of business.

''(3) ANSWERS BY SATELLITE CARRIERS.—Within 5 business days after the date of service, the satellite carrier shall file an answer with the Commission and shall serve the answer by a commonly used overnight delivery service and by United States mail, on the counsel designated in the complaint at the address listed for such counsel in the complaint.

''(4) DEFENSES.—

''(A) EXCLUSIVE DEFENSES.—The defenses under this paragraph are the exclusive defenses available to a satellite carrier against which a complaint under this subsection is filed.

''(B) DEFENSES.—The defenses referred to under subparagraph (A) are the defenses that—

''(i) the satellite carrier did not retransmit the television broadcast station to any person in the local market of the station during the time period specified in the complaint;

''(ii) the television broadcast station had, in a writing signed by an officer of the television broadcast station, expressly authorized the retransmission of the station by the satellite carrier to each person in the local market of the television broadcast station to which the satellite carrier made such retransmissions for the entire time period during which it is alleged that a violation of subsection (b)(1) has occurred;

''(iii) the retransmission was made after January 1, 2002, and the television broadcast station had elected to assert the right to carriage under section 338 as against the satellite carrier for the relevant period; or

''(iv) the station being retransmitted is a noncommercial television broadcast station.

''(5) COUNTING OF VIOLATIONS.—The retransmission without consent of a particular television broadcast station on a particular day to 1 or more persons in the local market of the station shall be considered a separate violation of subsection (b)(1).

''(6) BURDEN OF PROOF.—With respect to each alleged violation, the burden of proof shall be on a television broadcast station to establish that the satellite carrier retransmitted the station to at least 1 person in the local market of the station on the day in question. The burden of proof shall be on the satellite carrier with respect to all defenses other than the defense under paragraph (4)(B)(i).

''(7) PROCEDURES.—

''(A) REGULATIONS.—Within 60 days after the date of enactment of the Satellite Home Viewer Improvement Act of 1999, the Commission shall

issue procedural regulations implementing this subsection which shall supersede procedures under section 312.

''(B) DETERMINATIONS.—

''(i) IN GENERAL.—Within 45 days after the filing of a complaint, the Commission shall issue a final determination in any proceeding brought under this subsection. The Commission's final determination shall specify the number of violations committed by the satellite carrier. The Commission shall hear witnesses only if it clearly appears, based on written filings by the parties, that there is a genuine dispute about material facts. Except as provided in the preceding sentence, the Commission may issue a final ruling based on written filings by the parties.

''(ii) DISCOVERY.—The Commission may direct the parties to exchange pertinent documents, and if necessary to take prehearing depositions, on such schedule as the Commission may approve, but only if the Commission first determines that such discovery is necessary to resolve a genuine dispute about material facts, consistent with the obligation to make a final determination within 45 days.

''(8) RELIEF.—If the Commission determines that a satellite carrier has retransmitted the television broadcast station to at least 1 person in the local market of such station and has failed to meet its burden of proving 1 of the defenses under paragraph (4) with respect to such retransmission, the Commission shall be required to—

''(A) make a finding that the satellite carrier violated subsection (b)(1) with respect to that station; and

''(B) issue an order, within 45 days after the filing of the complaint, containing—

''(i) a cease-and-desist order directing the satellite carrier immediately to stop making any further retransmissions of the television broadcast station to any person within the local market of such station until such time as the Commission determines that the satellite carrier is in compliance with subsection (b)(1) with respect to such station;

''(ii) if the satellite carrier is found to have violated subsection (b)(1) with respect to more than 2 television broadcast stations, a cease-and-desist order directing the satellite carrier to stop making any further retransmission of any television broadcast station to any person within the local market of such station, until such time as the Commission, after giving notice to the station, that the satellite carrier is in compliance with subsection (b)(1) with respect to such stations; and

''(iii) an award to the complainant of that complainant's costs and reasonable attorney's fees.

''(9) COURT PROCEEDINGS ON ENFORCEMENT OF COMMISSION ORDER.—

''(A) IN GENERAL.—On entry by the Commission of a final order granting relief under this subsection—

''(i) a television broadcast station may apply within 30 days after such entry to the United States District Court for the Eastern District of Virginia for a final judgment enforcing all relief granted by the Commission; and

''(ii) the satellite carrier may apply within 30 days after such entry to the United States District Court for the Eastern District of Virginia for a judgment reversing the Commission's order.

''(B) APPEAL.—The procedure for an appeal under this paragraph by the satellite carrier shall supersede any other appeal rights under Federal or State law. A United States district court shall be deemed to have personal jurisdiction over the satellite carrier if the carrier, or a company under common control with the satellite carrier, has delivered television programming by satellite to more than 30 customers in that district during the preceding 4-year period. If the United States District Court for the Eastern District of Virginia does not have personal jurisdiction over the satellite carrier, an enforcement action or appeal shall be brought in the United States District Court for the District of Columbia, which may find personal jurisdiction based on the satellite carrier's ownership of licenses issued by the Commission. An application by a television broadcast station for an order enforcing any cease-and-desist relief granted by the Commission shall be resolved on a highly expedited schedule. No discovery may be conducted by the parties in any such proceeding. The district court shall enforce the Commission order unless the Commission record reflects manifest error and an abuse of discretion by the Commission.

''(10) CIVIL ACTION FOR STATUTORY DAMAGES.—Within 6 months after issuance of an order by the Commission under this subsection, a television broadcast station may file a civil action in any United States district court that has personal jurisdiction over the satellite carrier for an award of statutory damages for any violation that the Commission has determined to have been committed by a satellite carrier under this subsection. Such action shall not be subject to transfer under section 1404(a) of title 28, United States Code. On finding that the satellite carrier has committed 1 or more violations of subsection (b), the District Court shall be required to award the television broadcast station statutory damages of $25,000 per violation, in accordance with paragraph (5), and the costs and attorney's fees incurred by the station. Such statutory damages shall be awarded only if the television broadcast station has filed a binding stipulation with the court that such station will donate the full amount in excess of $1,000 of any statutory damage award to the United States Treasury for public purposes. Notwithstanding any other provision of law, a station shall incur no tax liability of any kind with respect to any amounts so donated. Discovery may be conducted by the parties in any proceeding under this paragraph only if and to the extent necessary to resolve a genuinely disputed issue of fact concerning 1 of the defenses under paragraph (4). In any such action, the defenses under paragraph (4) shall be exclusive, and the burden of proof shall be on the satellite carrier with respect to all defenses other than the defense under paragraph (4)(B)(i). A judgment under this paragraph may be enforced in any manner permissible under Federal or State law.

''(11) APPEALS.—

''(A) IN GENERAL.—The nonprevailing party before a United States district court may appeal a decision under this subsection to the United States Court of Appeals with jurisdiction over that district court. The Court of Appeals shall not issue any stay of the effectiveness of any decision granting relief against a satellite carrier unless the carrier presents clear and convincing evidence that it is highly likely to prevail on appeal and only after posting a bond for the full amount of any monetary award assessed against it and for such further amount as the Court of Appeals may believe appropriate.

''(B) APPEAL.—If the Commission denies relief in response to a complaint filed by a television broadcast station under this subsection, the television broadcast station filing the complaint may file an appeal with the United States Court of Appeals for the District of Columbia Circuit.

''(12) SUNSET.—No complaint or civil action may be filed under this subsection after December 31, 2001. This subsection shall continue to apply to any complaint or civil action filed on or before such date.''.

SEC. 1010. SEVERABILITY.

If any provision of section 325(b) of the Communications Act of 1934 (47 U.S.C. 325(b)), or the application of that provision to any person or circumstance, is held by a court of competent jurisdiction to violate any provision of the Constitution of the United States, then the other provisions of that section, and the application of that provision to other persons and circumstances, shall not be affected.

SEC. 1011. TECHNICAL AMENDMENTS.

(a) TECHNICAL AMENDMENTS RELATING TO CABLE SYSTEMS.—Title 17, United States Code is amended as follows:

(1) Such title is amended—

(A) by striking ''cable system'' and ''cable systems'' each place it appears (other than chapter 12) and inserting ''terrestrial system'' and ''terrestrial systems'', respectively;

(B) by striking ''cable service'' each place it appears and inserting ''terrestrial service''; and

(C) by striking ''programing' each place it appears and inserting ''programming''.

(2) Section 111(d)(1)(C) is amended by striking ''cable system's'' and inserting ''terrestrial system's''.

(3) Section 111 is amended in the subsection headings for subsections (c), (d), and (e), by striking ''CABLE'' and inserting ''TERRESTRIAL''.

(4) Chapter 5 is amended—

(A) in the table of contents by amending the item relating to section 510 to read as follows:

''Sec. 510. Remedies for alteration of programming by terrestrial systems.'';

and

(B) by amending the section heading for section 510 to read as follows:

''§510. Remedies for alteration of programming by terrestrial systems''.

(5) Section 801(b)(2)(A) is amended—

(A) by striking ''cable subscribers'' and inserting ''terrestrial service subscribers''; and

(B) by striking ''cable industry'' and inserting ''terrestrial service industry''.

(6) Section 111 is amended by striking ''compulsory'' each place it appears and inserting ''statutory''.

(7) Section 510(b) is amended by striking ''compulsory'' and inserting ''statutory''.

(b) TECHNICAL AMENDMENTS RELATING TO PERFORMANCE OR DISPLAYS OF WORKS.—

(1) Section 111 of title 17, United States Code, is amended—

(A) in subsection (a), in the matter preceding paragraph (1), by striking ''primary transmission embodying a performance or display of a work'' and inserting ''performance or display of a work embodied in a primary transmission'';

(B) in subsection (b), in the matter preceding paragraph (1), by striking ''primary transmission embodying a performance or display of a work'' and inserting ''performance or display of a work embodied in a primary transmission''; and

(C) in subsection (c)—

(i) in paragraph (1)—

(I) by inserting ''a performance or display of a work embodied in'' after ''by a terrestrial system of''; and

(II) by striking ''and embodying a performance or display of a work''; and

(ii) in paragraphs (3) and (4)—

(I) by striking ''a primary transmission'' and inserting ''a performance or display of a work embodied in a primary transmission''; and

(II) by striking ''and embodying a performance or display of a work''.

(2) Section 119(a) of title 17, United States Code, is amended—

(A) in paragraph (1), by striking ''primary transmission made by a superstation and embodying a performance or display of a work'' and inserting ''performance or display of a work embodied in a primary transmission made by a superstation'';

(B) in paragraph (2)(A), by striking ''programming'' and all that follows through ''a work'' and inserting ''a performance or display of a work embodied in a primary transmission made by a network station'';

(C) in paragraph (4)—

(i) by inserting ''a performance or display of a work embodied in'' after ''by a satellite carrier of''; and

(ii) by striking ''and embodying a performance or display of a work''; and

(D) in paragraph (6)—

(i) by inserting ''performance or display of a work embodied in'' after ''by a satellite carrier of''; and

(ii) by striking ''and embodying a performance or display of a work''.

(3) Section 501(e) of title 17, United States Code, is amended by striking ''primary transmission embodying the performance or display of a work'' and inserting ''performance or display of a work embodied in a primary transmission''.

(c) TECHNICAL AMENDMENT RELATING TO TERRESTRIAL SYSTEMS.—Section 111(f) of title 17, United States Code, is amended in the first sentence of the definition of 'terrestrial system', by inserting '', other than a digital online communication service,'' after ''other communications channels''.

(d) CONFORMING AMENDMENT.—Section 119(a)(2)(C) of title 17, United States Code, is amended in the first sentence by striking ''currently''.

(e) WORK MADE FOR HIRE.—Section 101 of title 17, United States Code, is amended in the definition relating to work for hire in paragraph (2) by inserting ''as a sound recording,'' after ''audiovisual work''.

SEC. 1012. EFFECTIVE DATES.

Sections 1001, 1003, 1005, 1007, 1008, 1009, 1010, and 1011 (and the amendments made by such sections) shall take effect on the date of enactment of this Act. The amendments made by sections 1002, 1004, and 1006 shall be effective as of July 1, 1999.

TITLE II—RURAL LOCAL TELEVISION SIGNALS

SEC. 2001. SHORT TITLE.

This title may be cited as the ''Rural Local Broadcast Signal Act''.

SEC. 2002. LOAN GUARANTEES.

(a) PURPOSE.—The purpose of this title is to ensure improved access to the signals of local television stations by multichannel video providers to all households which desire such service in unserved and underserved rural areas by December 31, 2006.

(b) ASSISTANCE TO BORROWERS.—Subject to the appropriations limitation under subsection (c)(2), the Secretary, after consultation with the Secretary of the Treasury and the Federal Communications Commission, may provide loan guarantees to borrowers to finance projects to provide local television broadcast signals by providers of multichannel video services including direct broadcast satellite licensees and licensees of multichannel multipoint distribution systems, to areas that do not receive local television broadcast signals over commercial for-profit direct-to-home satellite distribution systems. A borrower that receives a loan guarantee under this title may not transfer any part of the proceeds of the monies from the loans guaranteed under this program to an affiliate of the borrower.

(c) UNDERWRITING CRITERIA; PREREQUISITES.—

(1) IN GENERAL.—The Secretary shall administer the underwriting criteria developed under subsection (f)(1) to determine which loans are eligible for a guarantee under this title.

(2) AUTHORITY TO MAKE LOAN GUARANTEES.—The Secretary shall be authorized to guarantee loans under this title only to the extent provided for in advance by appropriations Acts.

(3) PREREQUISITES.—In addition to meeting the underwriting criteria under paragraph (1), a loan is not eligible for a loan guarantee under this title unless—

(A) the loan is made to finance the acquisition, improvement, enhancement, construction, deployment, launch, or rehabilitation of the means by which local television broadcast signals will be delivered to an area not receiving such signals over commercial for-profit direct-to-home satellite distribution systems;

(B) the proceeds of the loan will not be used for operating expenses;

(C) the total amount of all such loans may not exceed in the aggregate $1,250,000,000;

(D) the loan does not exceed $100,000,000, except that 1 loan under this title may exceed $100,000,000, but shall not exceed $625,000,000;

(E) the loan bears interest and penalties which, in the Secretary's judgment, are not unreasonable, taking into consideration the prevailing interest rates and customary fees incurred under similar obligations in the private capital market; and

(F) the Secretary determines that taking into account the practices of the private capital markets with respect to the financing of similar projects, the security of the loan is adequate.

(4) ADDITIONAL CRITERIA.—In addition to the requirements of paragraphs (1), (2), and (3), a loan for which a guarantee is sought under this title shall meet any additional criteria promulgated under subsection (f)(1).

(d) ADDITIONAL REQUIREMENTS.—The Secretary may not make a loan guarantee under this title unless—

(1) repayment of the obligation is required to be made within a term of the lesser of—

(A) 25 years from the date of its execution; or

(B) the useful life of the primary assets used in the delivery of relevant signals;

(2) the Secretary has been given the assurances and documentation necessary to review and approve the guaranteed loans;

(3) the Secretary makes a determination in writing that—

(A) the applicant has given reasonable assurances that the assets, facilities, or equipment will be utilized economically and efficiently;

(B) necessary and sufficient regulatory approvals, spectrum rights, and delivery permissions have been received by project participants to assure the project's ability to repay obligations under this title; and

(C) repayment of the obligation can reasonably be expected, including the use of an appropriate combination of credit risk premiums and collateral offered by the applicant to protect the Federal Government.

(e) APPROVAL OF NTIA REQUIRED.—

(1) IN GENERAL.—The Secretary may not issue a loan guarantee under this title unless the National Telecommunications and Information Administration consults with the Secretary and certifies that—

(A) the issuance of the loan guarantee is consistent with subsection (a) of this section; and

(B) consistent with subsection (b) of this section, the project to be financed by a loan guaranteed under this section is not likely to have a substantial adverse impact on competition between multichannel video programming distributors that outweighs the benefits of improving access to the signals of a local television station by a multichannel video provider.

(2) CERTIFICATION.—The Secretary shall provide the appropriate information on each loan guarantee application recommended by the Secretary to the National Telecommunications and Information Administration for certification. The National Telecommunications and Information Administration shall make the determination required under this subsection within 90 days, without regard to the provision of chapter 5 of title 5, United States Code, and sections 10 and 11 of the Federal Advisory Committee Act (5 U.S.C. App.).

(f) REQUIREMENTS.—

(1) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Secretary shall consult with the Office of Management and Budget and an independent public accounting firm to develop underwriting criteria relating to the issuance of loan guarantees, appropriate collateral and cash flow levels for the types of loan guarantees that might be issued under this title, and such other matters as the Secretary determines appropriate.

(2) AUTHORITY OF SECRETARY.—In lieu of or in combination with appropriations of budget authority to cover the costs of loan guarantees as required under section 504(b)(1) of the Federal Credit Reform Act of 1990, the Secretary may accept on behalf of an applicant for assistance under this title a commitment from a non-Federal source to fund in whole or in part the credit risk premiums with respect to the applicant's loan. The aggregate of appropriations of budget authority and credit risk premiums described in this paragraph with respect to a loan guarantee may not be less than the cost of that loan guarantee.

(3) CREDIT RISK PREMIUM AMOUNT.—The Secretary shall determine the amount required for credit risk premiums under this subsection on the basis of—

(A) the circumstances of the applicant, including the amount of collateral offered;

(B) the proposed schedule of loan disbursements;

(C) the borrower's business plans for providing service;

(D) financial commitment from the broadcast signal provider;

(E) approval of the Office of Management and Budget; and

(F) any other factors the Secretary considers relevant.

(4) PAYMENT OF PREMIUMS.—Credit risk premiums under this subsection shall be paid to an account established in the Treasury which shall accrue interest and such interest shall be retained by the account, subject to paragraph (5).

(5) COHORTS OF LOANS.—In order to maintain sufficient balances of credit risk premiums to adequately protect the Federal Government from risk of default, while minimizing the length of time the Government retains possession of those balances, the Secretary in consultation with the Office of Management and Budget shall establish cohorts of loans. When all obligations attached to a cohort of loans have been satisfied, credit risk premiums paid for the cohort, and interest accrued thereon, which were not used to mitigate losses shall be returned to the original source on a pro rata basis.

(g) CONDITIONS OF ASSISTANCE.—A borrower shall agree to such terms and conditions as are sufficient, in the judgment of the Secretary to ensure that, as long as any principal or interest is due and payable on such obligation, the borrower—

(1) will maintain assets, equipment, facilities, and operations on a continuing basis;

(2) will not make any discretionary dividend payments that reduce the ability to repay obligations incurred under this section; and

(3) will remain sufficiently capitalized.

(h) LIEN ON INTERESTS IN ASSETS.—Upon providing a loan guarantee to a borrower under this title, the Secretary shall have liens which shall be superior to all other liens on assets of the borrower equal to the unpaid balance of the loan subject to such guarantee.

(i) PERFECTED INTEREST.—The Secretary and the lender shall have a perfected security interest in those assets of the borrower fully sufficient to protect the Secretary and the lender.

(j) INSURANCE POLICIES.—In accordance with practices of private lenders, as determined by the Secretary, the borrower shall obtain, at its expense, insurance sufficient to protect the interests of the Federal Government, as determined by the Secretary.

(k) SPECIAL PROVISION FOR SATELLITE CARRIERS.—No satellite carrier that provided television broadcast signals to subscribers on October 1, 1999, and no company that is an affiliate of any such carrier, shall be eligible for a loan guarantee under this section if either the carrier or its affiliate holds a license for unused spectrum that would be suitable for delivering local television signals into unserved and underserved markets.

(l) AUTHORIZATION OF APPROPRIATIONS.—For the additional costs of the loans guaranteed under this title, including the cost of modifying the loans as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661(a)),

there are authorized to be appropriated for fiscal years 2000 through 2006, such amounts as may be necessary. In addition there are authorized to be appropriated such sums as may be necessary to administer this title. Any amounts appropriated under this subsection shall remain available until expended.

SEC. 2003. ADMINISTRATION OF LOAN GUARANTEES.

(a) APPLICATIONS.—The Secretary shall prescribe the form and contents for an application for a loan guarantee under section 2002.

(b) ASSIGNMENT OF LOAN GUARANTEES.—The holder of a loan guaranteed under this title may assign the loan guarantee in whole or in part, subject to such requirements as the Secretary may prescribe.

(c) MODIFICATIONS.—The Secretary may approve the modification of any term or condition of a loan guarantee including the rate of interest, time of payment of interest or principal, or security requirements, if the Secretary finds in writing that—

(1) the modification is equitable and is in the overall best interests of the United States;

(2) consent has been obtained from the borrower and the lender;

(3) the modification is consistent with the objective underwriting criteria developed in consultation with the Office of Management and Budget and an independent public accounting firm under section 2002(f);

(4) the modification does not adversely affect the Federal Government's interest in the entity's assets or loan collateral;

(5) the modification does not adversely affect the entity's ability to repay the loan; and

(6) the National Telecommunications and Information Administration does not object to the modification on the ground that it is inconsistent with the certification under section 2002(e).

(d) PRIORITY MARKETS.—

(1) IN GENERAL.—To the maximum extent practicable, the Secretary shall give priority to projects which serve the most underserved rural markets, as determined by the Secretary. In making prioritization determinations, the Secretary shall consider prevailing market conditions, feasibility of providing service, population, terrain, and other factors the Secretary determines appropriate.

(2) PRIORITY RELATING TO CONSUMER COSTS AND SEPARATE TIER OF SIGNALS.—The Secretary shall give priority to projects that—

(A) offer a separate tier of local broadcast signals; and

(B) provide lower projected costs to consumers of such separate tier.

(3) PERFORMANCE SCHEDULES.—Applicants for priority projects under this section shall enter into stipulated performance schedules with the Secretary.

(4) PENALTY.—The Secretary may assess a borrower a penalty not to exceed 3 times the interest due on the guaranteed loan, if the borrower fails to meet its stipulated performance schedule. The penalty shall be paid to the account established by the Treasury under section 2002.

(5) LIMITATION ON CONSIDERATION OF MOST POPULATED AREAS.—The Secretary shall not provide a loan guarantee for a project that is primarily designed to serve the 40 most populated designated market areas and shall take into consideration the importance of serving rural markets that are not likely to be otherwise offered service under section 122 of title 17, United States Code, except through the loan guarantee program under this title.

(e) COMPLIANCE.—The Secretary shall enforce compliance by an applicant and any other party to the loan guarantee for whose benefit assistance is intended, with the provisions of this title, regulations issued hereunder, and the terms and conditions of the loan guarantee, including through regular periodic inspections and audits.

(f) COMMERCIAL VALIDITY.—For purposes of claims by any party other than the Secretary, a loan guarantee or loan guarantee commitment shall be conclusive evidence that the underlying obligation is in compliance with the provisions of the title, and that such obligation has been approved and is legal as to principal, interest, and other terms. Such a guarantee or commitment shall be valid and incontestable in the hands of a holder thereof, including the original lender or any other holder, as of the date when the Secretary granted the application therefor, except as to fraud or material misrepresentation by such holder.

(g) DEFAULTS.—The Secretary shall prescribe regulations governing a default on a loan guaranteed under this title.

(h) RIGHTS OF THE SECRETARY.—

(1) SUBROGATION.—If the Secretary authorizes payment to a holder, or a holder's agent, under subsection (g) in connection with a loan guarantee made under section 2002, the Secretary shall be subrogated to all of the rights of the holder with respect to the obligor under the loan.

(2) DISPOSITION OF PROPERTY.—The Secretary may complete, recondition, reconstruct, renovate, repair, maintain, operate, rent, sell, or otherwise dispose of any property or other interests obtained under this section in a manner that maximizes taxpayer return and is consistent with the public convenience and necessity.

(3) WARRANTS.—To ensure that the United States Government is compensated for the risk in making guarantees under this title, the Secretary shall enter into contracts under which the Government, contingent on the financial success of the borrower, would participate in a percentage of the gains of any for profit borrower or its security holders in connection with the project funded by loans so guaranteed.

(i) ACTION AGAINST OBLIGOR.—The Secretary may bring a civil action in an appropriate district court of the United States in the name of the United States or of the holder of the obligation in the event of a default on a loan guaranteed under this title. The holder of a guarantee shall make available to the Secretary all records and evidence necessary to prosecute the civil action. The Secretary may accept property in full or partial satisfaction of any sums owed as a result of default. If the Secretary receives, through the sale or other disposition of such property, an amount greater than the aggregate of—

(1) the amount paid to the holder of a guarantee under subsection (g) of this section; and

(2) any other cost to the United States of remedying the default, the Secretary shall pay such excess to the obligor.

(j) BREACH OF CONDITIONS.—The Attorney General shall commence a civil action in a court of appropriate jurisdiction to enjoin any activity which the Secretary finds is in violation of this title, regulations issued hereunder, or any conditions which were duly agreed to, and to secure any other appropriate relief, including relief against any affiliate of the borrower.

(k) ATTACHMENT.—No attachment or execution may be issued against the Secretary or any property in the control of the Secretary prior to the entry of final judgment to such effect in any State, Federal, or other court.

(l) INVESTIGATION CHARGE AND FEES.—

(1) APPRAISAL FEE.—The Secretary may charge and collect from an applicant a reasonable fee for appraisal for the value of the equipment or facilities for which the loan guarantee is sought, and for making necessary determinations and findings. The fee may not, in the aggregate, be more than one-half of one percent of the principal amount of the obligation. The fee imposed under this paragraph shall be used to offset the administrative costs of the program.

(2) LOAN ORIGINATION FEE.—The Secretary may charge a loan origination fee.

(m) ANNUAL AUDIT.—The General Accounting Office shall annually audit the administration of this title and report the results to the Agriculture, Appropriations, and Judiciary Committees of the Senate and the House of Representatives, the House of Representatives Committee on Commerce, the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Banking, Housing, and Urban Affairs, and the House of Representatives Committee on Banking and Financial Services.

(n) INDEMNIFICATION.—An affiliate of the borrower shall indemnify the Government for any losses it incurs as a result of—

(1) a judgment against the borrower;

(2) any breach by the borrower of its obligations under the loan guarantee agreement;

(3) any violation of the provisions of this title by the borrower;

(4) any penalties incurred by the borrower for any reason, including the violation of the stipulated performance; and

(5) any other circumstances that the Secretary determines to be appropriate.

(o) SUNSET.—The Secretary may not approve a loan guarantee under this title after December 31, 2006.

SEC. 2004. RETRANSMISSION OF LOCAL TELEVISION BROADCAST STATIONS.

A borrower shall be subject to applicable rights, obligations, and limitations of title 17, United States Code. If a local broadcast station requests carriage of its signal and is located in a market not served by a satellite carrier providing service under a statutory license under section 122 of title 17, United States Code, the borrower shall carry the signal of that station without charge and shall be subject to the applicable rights, obligations, and limitations of sections 338, 614, and 615 of the Communications Act of 1934.

SEC. 2005. LOCAL TELEVISION SERVICE IN UNSERVED AND UNDERSERVED MARKETS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commission shall take all actions necessary to make a determination regarding licenses or other authorizations for facilities that will utilize, for delivering local broadcast television station signals to satellite television subscribers in unserved and underserved local television markets, spectrum otherwise allocated to commercial use.

(b) RULES.—

(1) FORM OF BUSINESS.—To the extent not inconsistent with the Communications Act of 1934 and the Commission's rules, the Commission shall permit applicants under subsection (a) to engage in partnerships, joint ventures, and similar operating arrangements for the purpose of carrying out subsection (a).

(2) HARMFUL INTERFERENCE.—The Commission shall ensure that no facility licensed or authorized under subsection (a) causes harmful interference to the primary users of that spectrum or to public safety spectrum use.

(3) LIMITATION ON COMMISSION.—Except as provided in paragraphs (1) and (2), the Commission may not restrict any entity granted a license or other authorization under subsection (a) from using any reasonable compression, reformatting, or other technology.

(c) REPORT.—Not later than January 1, 2001, the Commission shall report to the Agriculture, Appropriations, and Judiciary Committees of the Senate and the House of Representatives, the Senate Committee on Commerce, Science, and Transportation, and the House of Representatives Committee on Commerce, on the extent to which licenses and other authorizations under subsection (a) have facilitated the delivery of local signals to satellite television subscribers in unserved and underserved local television markets. The report shall include—

(1) an analysis of the extent to which local signals are being provided by direct-to-home satellite television providers and by other multichannel video program distributors;

(2) an enumeration of the technical, economic, and other impediments each type of multichannel video programming distributor has encountered; and

(3) recommendations for specific measures to facilitate the provision of local signals to subscribers in unserved and underserved markets by direct-to-home satellite television providers and by other distributors of multichannel video programming service.

SEC. 2006. DEFINITIONS.

In this title:

(1) AFFILIATE.—The term ''affiliate'' means any person or entity that controls, or is controlled by, or is under common control with, another person or entity.

(2) BORROWER.—The term ''borrower'' means any person or entity receiving a loan guarantee under this program.

(3) COMMISSION.—The term ''Commission'' means the Federal Communications Commission.

(4) COST.—

(A) IN GENERAL.—The term ''cost'' means the estimated long-term cost to the Government of a loan guarantee or modification thereof, calculated on a net present value basis, excluding administrative costs and any incidental effects on governmental receipts or outlays.

(B) LOAN GUARANTEES.—For purposes of this paragraph the cost of a loan guarantee—

(i) shall be the net present value, at the time when the guaranteed loan is disbursed, of the estimated cash flows of—

(I) payments by the Government to cover defaults and delinquencies, interest subsidies, or other payments;

(II) payments to the Government, including origination and other fees, penalties, and recoveries; and

(ii) shall include the effects of changes in loan terms resulting from the exercise by the guaranteed lender of an option included in the loan guarantee contract, or by the borrower of an option included in the guaranteed loan contract.

(C) COST OF MODIFICATION.—The cost of the modification shall be the difference between the current estimate of the net present value of the remaining cash flows under the terms of a loan guarantee contract, and the current estimate of the net present value of the remaining cash flows under the terms of the contract, as modified.

(D) DISCOUNT RATE.—In estimating net present value, the discount rate shall be the average interest rate on marketable Treasury securities of similar maturity to the cash flows of the guarantee for which the estimate is being made.

(E) FISCAL YEAR ASSUMPTIONS.—When funds of a loan guarantee under this title are obligated, the estimated cost shall be based on the current assumptions, adjusted to incorporate the terms of the loan contract, for the fiscal year in which the funds are obligated.

(5) CURRENT.—The term ''current'' has the same meaning as in section 250(c)(9) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(6) DESIGNATED MARKET AREA.—The term ''designated market area'' has the meaning given that term under section 122(j) of title 17, United States Code.

(7) LOAN GUARANTEE.—The term ''loan guarantee'' means any guarantee, insurance, or other pledge with respect to the payment of all or part of the principal or interest on any debt obligation of a non-Federal borrower to the Federal Financing Bank or a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(8) MODIFICATION.—The term ''modification'' means any Government action that alters the estimated cost of an outstanding loan guarantee (or loan guarantee commitment) from the current estimate of cash flows, including the sale of loan assets, with or without recourse, and the purchase of guaranteed loans.

(9) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(10) COMMON TERMS.—Except as provided in paragraphs (1) through (9), any term used in this title that is defined in the Communications Act of 1934 (47 U.S.C. 151 et seq.) has the meaning given it in that Act.

TITLE III—TRADEMARK CYBERPIRACY PREVENTION

SEC. 3001. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This title may be cited as the ''Anticybersquatting Consumer Protection Act''.

(b) REFERENCES TO THE TRADEMARK ACT OF 1946.—Any reference in this title 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.).

SEC. 3002. CYBERPIRACY PREVENTION.

(a) IN GENERAL.—Section 43 of the Trademark Act of 1946 (15 U.S.C. 1125) is amended by inserting at the end the following:

''(d)(1)(A) A person shall be liable in a civil action by the owner of a mark, including a personal name which is protected as a mark under this section, if, without regard to the goods or services of the parties, that person—

''(i) has a bad faith intent to profit from that mark, including a personal name which is protected as a mark under this section; and

''(ii) registers, traffics in, or uses a domain name that—

''(I) in the case of a mark that is distinctive at the time of registration of the domain name, is identical or confusingly similar to that mark;

''(II) in the case of a famous mark that is famous at the time of registration of the domain name, is identical or confusingly similar to or dilutive of that mark; or

''(III) is a trademark, word, or name protected by reason of section 706 of title 18, United States Code, or section 220506 of title 36, United States Code.

''(B)(i) In determining whether a person has a bad faith intent described under subparagraph (A), a court may consider factors such as, but not limited to—

''(I) the trademark or other intellectual property rights of the person, if any, in the domain name;

''(II) the extent to which the domain name consists of the legal name of the person or a name that is otherwise commonly used to identify that person;

''(III) the person's prior use, if any, of the domain name in connection with the bona fide offering of any goods or services;

''(IV) the person's bona fide noncommercial or fair use of the mark in a site accessible under the domain name;

''(V) the person's intent to divert consumers from the mark owner's online location to a site accessible under the domain name that could harm the goodwill represented by the mark, either for 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;

''(VI) the person's offer to transfer, sell, or otherwise assign the domain name to the mark owner or any third party for financial gain without having used, or having an intent to use, the domain name in the bona fide offering of any goods or services, or the person's prior conduct indicating a pattern of such conduct;

''(VII) the person's provision of material and misleading false contact information when applying for the registration of the domain name, the person's intentional failure to maintain accurate contact information, or the person's prior conduct indicating a pattern of such conduct;

''(VIII) the person's registration or acquisition of multiple domain names which the person knows are identical or confusingly similar to marks of others that are distinctive at the time of registration of such domain names, or dilutive of famous marks of others that are famous at the time of registration of such domain names, without regard to the goods or services of the parties; and

''(IX) 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.

''(ii) Bad faith intent described under subparagraph (A) 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.

''(C) In any civil action involving the registration, trafficking, or use of a domain name under this paragraph, a court may order the forfeiture or cancellation of the domain name or the transfer of the domain name to the owner of the mark.

''(D) A person shall be liable for using a domain name under subparagraph (A) only if that person is the domain name registrant or that registrant's authorized licensee.

''(E) As used in this paragraph, the term '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.

''(2)(A) The owner of a mark may file an in rem civil action against a domain name in the judicial district in which the domain name registrar, domain name registry, or other domain name authority that registered or assigned the domain name is located if—

''(i) the domain name violates any right of the owner of a mark registered in the Patent and Trademark Office, or protected under subsection (a) or (c); and

''(ii) the court finds that the owner—

''(I) is not able to obtain in personam jurisdiction over a person who would have been a defendant in a civil action under paragraph (1); or

''(II) through due diligence was not able to find a person who would have been a defendant in a civil action under paragraph (1) by—

''(aa) sending a notice of the alleged violation and intent to proceed under this paragraph to the registrant of the domain name at the postal and e-mail address provided by the registrant to the registrar; and

''(bb) publishing notice of the action as the court may direct promptly after filing the action.

''(B) The actions under subparagraph (A)(ii) shall constitute service of process.

''(C) In an in rem action under this paragraph, a domain name shall be deemed to have its situs in the judicial district in which—

''(i) the domain name registrar, registry, or other domain name authority that registered or assigned the domain name is located; or

''(ii) documents sufficient to establish control and authority regarding the disposition of the registration and use of the domain name are deposited with the court.

''(D)(i) The remedies in an in rem action under this paragraph shall be limited to a court order for the forfeiture or cancellation of the domain name or the transfer of the domain name to the owner of the mark. Upon receipt of written notification of a filed, stamped copy of a complaint filed by the owner of a mark in a United States district court under this paragraph, the domain name registrar, domain name registry, or other domain name authority shall—

''(I) expeditiously 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

''(II) not transfer, suspend, or otherwise modify the domain name during the pendency of the action, except upon order of the court.

''(ii) The domain name registrar or registry or other domain name authority shall not be liable

for injunctive or monetary relief under this paragraph except in the case of bad faith or reckless disregard, which includes a willful failure to comply with any such court order.

''(3) The civil action established under paragraph (1) and the in rem action established under paragraph (2), and any remedy available under either such action, shall be in addition to any other civil action or remedy otherwise applicable.

''(4) The in rem jurisdiction established under paragraph (2) shall be in addition to any other jurisdiction that otherwise exists, whether in rem or in personam.''.

(b) CYBERPIRACY PROTECTIONS FOR INDIVIDUALS.—

(1) IN GENERAL.—

(A) CIVIL LIABILITY.—Any person who registers a domain name that consists of the name of another living person, or a name substantially and confusingly similar thereto, without that person's consent, with the specific intent to profit from such name by selling the domain name for financial gain to that person or any third party, shall be liable in a civil action by such person.

(B) EXCEPTION.—A person who in good faith registers a domain name consisting of the name of another living person, or a name substantially and confusingly similar thereto, shall not be liable under this paragraph if such name is used in, affiliated with, or related to a work of authorship protected under title 17, United States Code, including a work made for hire as defined in section 101 of title 17, United States Code, and if the person registering the domain name is the copyright owner or licensee of the work, the person intends to sell the domain name in conjunction with the lawful exploitation of the work, and such registration is not prohibited by a contract between the registrant and the named person. The exception under this subparagraph shall apply only to a civil action brought under paragraph (1) and shall in no manner limit the protections afforded under the Trademark Act of 1946 (15 U.S.C. 1051 et seq.) or other provision of Federal or State law.

(2) REMEDIES.—In any civil action brought under paragraph (1), a court may award injunctive relief, including the forfeiture or cancellation of the domain name or the transfer of the domain name to the plaintiff. The court may also, in its discretion, award costs and attorneys fees to the prevailing party.

(3) DEFINITION.—In this subsection, the term ''domain name'' has the meaning given that term in section 45 of the Trademark Act of 1946 (15 U.S.C. 1127).

(4) EFFECTIVE DATE.—This subsection shall apply to domain names registered on or after the date of enactment of this Act.

SEC. 3003. DAMAGES AND REMEDIES.

(a) REMEDIES IN CASES OF DOMAIN NAME PIRACY.—

(1) INJUNCTIONS.—Section 34(a) of the Trademark Act of 1946 (15 U.S.C. 1116(a)) is amended in the first sentence by striking ''(a) or (c)'' and inserting ''(a), (c), or (d)''.

(2) DAMAGES.—Section 35(a) of the Trademark Act of 1946 (15 U.S.C. 1117(a)) is amended in the first sentence by inserting '', (c), or (d)'' after ''section 43(a)''.

(b) STATUTORY DAMAGES.—Section 35 of the Trademark Act of 1946 (15 U.S.C. 1117) is amended by adding at the end the following:

''(d) In a case involving a violation of section 43(d)(1), the plaintiff may elect, at any time before final judgment is rendered by the trial court, to recover, instead of actual damages and profits, an award of statutory damages in the 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.

Section 32(2) of the Trademark Act of 1946 (15 U.S.C. 1114) is amended—

(1) in the matter preceding subparagraph (A) by striking ''under section 43(a)'' and inserting ''under section 43(a) or (d)''; and

(2) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:

''(D)(i)(I) A domain name registrar, a domain name registry, or other domain name registration authority that takes any action described under clause (ii) affecting a domain name shall not be liable for monetary relief or, except as provided in subclause (II), for injunctive relief, to any person for such action, regardless of whether the domain name is finally determined to infringe or dilute the mark.

''(II) A domain name registrar, domain name registry, or other domain name registration authority described in subclause (I) may be subject to injunctive relief only if such registrar, registry, or other registration authority has—

''(aa) not expeditiously deposited with a court, in which an action has been filed regarding the disposition of the domain name, documents sufficient for the court to establish the court's control and authority regarding the disposition of the registration and use of the domain name;

''(bb) transferred, suspended, or otherwise modified the domain name during the pendency of the action, except upon order of the court; or

''(cc) willfully failed to comply with any such court order.

''(ii) An action referred to under clause (i)(I) is any action of refusing to register, removing from registration, transferring, temporarily disabling, or permanently canceling a domain name—

''(I) in compliance with a court order under section 43(d); or

''(II) in the implementation of a reasonable policy by such registrar, registry, or authority prohibiting the registration of a domain name that is identical to, confusingly similar to, or dilutive of another's mark.

''(iii) A domain name registrar, a domain name registry, or other domain name registration authority shall not be liable for damages under this section for the registration or maintenance of a domain name for another absent a showing of bad faith intent to profit from such registration or maintenance of the domain name.

''(iv) If a registrar, registry, or other registration authority takes an action described under clause (ii) based on a knowing and material misrepresentation by any other person that a domain name is identical to, confusingly similar to, or dilutive of a mark, the person making the knowing and material misrepresentation shall be liable for any damages, including costs and attorney's fees, incurred by the domain name registrant as a result of such action. The court may also grant injunctive relief to the domain name registrant, including the reactivation of the domain name or the transfer of the domain name to the domain name registrant.

''(v) A domain name registrant whose domain name has been suspended, disabled, or transferred under a policy described under clause (ii)(II) may, upon notice to the mark owner, file a civil action to establish that the registration or use of the domain name by such registrant is not unlawful under this Act. The 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.

Section 45 of the Trademark Act of 1946 (15 U.S.C. 1127) is amended by inserting after the undesignated paragraph defining the term ''counterfeit'' the following:

''The term 'domain name' means any alphanumeric designation which is registered with or assigned by any domain name registrar, domain name registry, or other domain name registration authority as part of an electronic address on the Internet.

''The term 'Internet' has the meaning given that term in section 230(f)(1) of the Communications Act of 1934 (47 U.S.C. 230(f)(1)).''.

SEC. 3006. STUDY ON ABUSIVE DOMAIN NAME REGISTRATIONS INVOLVING PERSONAL NAMES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Patent and Trademark Office and the Federal Election Commission, shall conduct a study and report to Congress with recommendations on guidelines and procedures for resolving disputes involving the registration or use by a person of a domain name that includes the personal name of another person, in whole or in part, or a name confusingly similar thereto, including consideration of and recommendations for—

(1) protecting personal names from registration by another person as a second level domain name for purposes of selling or otherwise transferring such domain name to such other person or any third party for financial gain;

(2) protecting individuals from bad faith uses of their personal names as second level domain names by others with malicious intent to harm the reputation of the individual or the goodwill associated with that individual's name;

(3) protecting consumers from the registration and use of domain names that include personal names in the second level domain in manners which are intended or are likely to confuse or deceive the public as to the affiliation, connection, or association of the domain name registrant, or a site accessible under the domain name, with such other person, or as to the origin, sponsorship, or approval of the goods, services, or commercial activities of the domain name registrant;

(4) protecting the public from registration of domain names that include the personal names of government officials, official candidates, and potential official candidates for Federal, State, or local political office in the United States, and the use of such domain names in a manner that disrupts the electoral process or the public's ability to access accurate and reliable information regarding such individuals;

(5) existing remedies, whether under State law or otherwise, and the extent to which such remedies are sufficient to address the considerations described in paragraphs (1) through (4); and

(6) the guidelines, procedures, and policies of the Internet Corporation for Assigned Names and Numbers and the extent to which they address the considerations described in paragraphs (1) through (4).

(b) GUIDELINES AND PROCEDURES.—The Secretary of Commerce shall, under its Memorandum of Understanding with the Internet Corporation for Assigned Names and Numbers, collaborate to develop guidelines and procedures for resolving disputes involving the registration or use by a person of a domain name that includes the personal name of another person, in whole or in part, or a name confusingly similar thereto.

SEC. 3007. HISTORIC PRESERVATION.

Section 101(a)(1)(A) of the National Historic Preservation Act (16 U.S.C. 470a(a)(1)(A)) is amended by adding at the end the following: ''Notwithstanding section 43(c) of 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 (commonly known as the 'Trademark Act of 1946' (15 U.S.C. 1125(c))), buildings and structures on or eligible for inclusion on the National Register of Historic Places (either individually or as part of a historic district), or designated as an individual landmark or as a contributing building in a historic district by a unit of State or local government, may retain the name historically associated with the building or structure.''.

SEC. 3008. SAVINGS CLAUSE.

Nothing in this title shall affect any defense available to a defendant under the Trademark Act of 1946 (including any defense under section

43(c)(4) of such Act or relating to fair use) or a person's right of free speech or expression under the first amendment of the United States Constitution.

SEC. 3009. TECHNICAL AND CONFORMING AMENDMENTS.

Chapter 85 of title 28, United States Code, is amended as follows:

(1) Section 1338 of title 28, United States Codes, is amended—

*(A) in the section heading by striking ''**trademarks**'' and inserting ''**trademarks**'';*

(B) in subsection (a) by striking ''trademarks'' and inserting ''trademarks''; and

(C) in subsection (b) by striking ''trade-mark'' and inserting ''trademark''.

(2) The item relating to section 1338 in the table of sections for chapter 85 of title 28, United States Code, is amended by striking ''trademarks'' and inserting ''trademarks''.

SEC. 3010. EFFECTIVE DATE.

Sections 3002(a), 3003, 3004, 3005, and 3008 of this title shall apply to all domain names registered before, on, or after the date of enactment of this Act, except that damages under subsection (a) or (d) of section 35 of the Trademark Act of 1946 (15 U.S.C. 1117), as amended by section 3003 of this title, shall not be available with respect to the registration, trafficking, or use of a domain name that occurs before the date of enactment of this Act.

TITLE IV—INVENTOR PROTECTION

SEC. 4001. SHORT TITLE.

This title may be cited as the ''American Inventors Protection Act of 1999''.

Subtitle A—Inventors' Rights

SEC. 4101. SHORT TITLE.

This subtitle may be cited as the ''Inventors' Rights Act of 1999''.

SEC. 4102. INTEGRITY IN INVENTION PROMOTION SERVICES.

(a) IN GENERAL.—Chapter 29 of title 35, United States Code, is amended by adding at the end the following new section:

''§ 297. Improper and deceptive invention promotion

''(a) IN GENERAL.—An invention promoter shall have a duty to disclose the following information to a customer in writing, prior to entering into a contract for invention promotion services:

''(1) the total number of inventions evaluated by the invention promoter for commercial potential in the past 5 years, as well as the number of those inventions that received positive evaluations, and the number of those inventions that received negative evaluations;

''(2) the total number of customers who have contracted with the invention promoter in the past 5 years, not including customers who have purchased trade show services, research, advertising, or other nonmarketing services from the invention promoter, or who have defaulted in their payment to the invention promoter;

''(3) the total number of customers known by the invention promoter to have received a net financial profit as a direct result of the invention promotion services provided by such invention promoter;

''(4) the total number of customers known by the invention promoter to have received license agreements for their inventions as a direct result of the invention promotion services provided by such invention promoter; 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.

''(b) CIVIL ACTION.—(1) Any customer who enters into a contract with an invention promoter and who is found by a court to have been injured by any material false or fraudulent statement or representation, or any omission of material fact, by that invention promoter (or any agent, employee, director, officer, partner, or independent contractor of such invention promoter), or by the failure of that invention promoter to disclose such information as required under subsection (a), may recover in a civil action against the invention promoter (or the officers, directors, or partners of such invention promoter), in addition to reasonable costs and attorneys' fees—

''(A) the amount of actual damages incurred by the customer; or

''(B) at the election of the customer at any time before final judgment is rendered, statutory damages in a sum of not more than $5,000, as the court considers just.

''(2) Notwithstanding paragraph (1), in a case where the customer sustains the burden of proof, and the court finds, that the invention promoter intentionally misrepresented or omitted a material fact to such customer, or willfully failed to disclose such information as required under subsection (a), with the purpose of deceiving that customer, the court may increase damages to not more than 3 times the amount awarded, taking into account past complaints made against the invention promoter that resulted in regulatory sanctions or other corrective actions based on those records compiled by the Commissioner of Patents under subsection (d).

''(c) DEFINITIONS.—For purposes of this section—

''(1) a 'contract for invention promotion services' means a contract by which an invention promoter undertakes invention promotion services for a customer;

''(2) a 'customer' is any individual who enters into a contract with an invention promoter for invention promotion services;

''(3) the term 'invention promoter' means any person, firm, partnership, corporation, or other entity who offers to perform or performs invention promotion services for, or on behalf of, a customer, and who holds itself out through advertising in any mass media as providing such services, but does not include—

''(A) any department or agency of the Federal Government or of a State or local government;

''(B) any nonprofit, charitable, scientific, or educational organization, qualified under applicable State law or described under section 170(b)(1)(A) of the Internal Revenue Code of 1986;

''(C) any person or entity involved in the evaluation to determine commercial potential of, or offering to license or sell, a utility patent or a previously filed nonprovisional utility patent application;

''(D) any party participating in a transaction involving the sale of the stock or assets of a business; or

''(E) any party who directly engages in the business of retail sales of products or the distribution of products; and

''(4) the term 'invention promotion services' means 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 invention of the customer.

''(d) RECORDS OF COMPLAINTS.—

''(1) RELEASE OF COMPLAINTS.—The Commissioner of Patents shall make all complaints received by the Patent and Trademark Office involving invention promoters publicly available, together with any response of the invention promoters. The Commissioner of Patents shall notify the invention promoter of a complaint and provide a reasonable opportunity to reply prior to making such complaint publicly available.

''(2) REQUEST FOR COMPLAINTS.—The Commissioner of Patents may request complaints relating to invention promotion services from any Federal or State agency and include such complaints in the records maintained under paragraph (1), together with any response of the invention promoters.''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 29 of title 35, United States Code, is amended by adding at the end the following new item:

''§ 297. Improper and deceptive invention promotion.''.

SEC. 4103. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect 60 days after the date of enactment of this Act.

Subtitle B—Patent and Trademark Fee Fairness

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.

(a) ORIGINAL FILING FEE.—Section 41(a)(1)(A) of title 35, United States Code, relating to the fee for filing an original patent application, is amended by striking ''$760'' and inserting ''$690''.

(b) REISSUE FEE.—Section 41(a)(4)(A) of title 35, United States Code, relating to the fee for filing for a reissue of a patent, is amended by striking ''$760'' and inserting ''$690''.

(c) NATIONAL FEE FOR CERTAIN INTERNATIONAL APPLICATIONS.—Section 41(a)(10) of title 35, United States Code, relating to the national fee for certain international applications, is amended by striking ''$760'' and inserting ''$690''.

(d) MAINTENANCE FEES.—Section 41(b)(1) of title 35, United States Code, relating to certain maintenance fees, is amended by striking ''$940'' and inserting ''$830''.

SEC. 4203. ADJUSTMENT OF TRADEMARK FEES.

Notwithstanding the second sentence of section 31(a) of the Trademark Act of 1946 (15 U.S.C. 111(a)), the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office is authorized in fiscal year 2000 to adjust trademark fees without regard to fluctuations in the Consumer Price Index during the preceding 12 months.

SEC. 4204. STUDY ON ALTERNATIVE FEE STRUCTURES.

The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall conduct a study of alternative fee structures that could be adopted by the United States Patent and Trademark Office to encourage maximum participation by the inventor community in the United States. The Director shall submit such study to the Committees on the Judiciary of the House of Representatives and the Senate not later than 1 year after the date of enactment of this Act.

SEC. 4205. PATENT AND TRADEMARK OFFICE FUNDING.

Section 42(c) of title 35, United States Code, is amended in the second sentence—

(1) by striking ''Fees available'' and inserting ''All fees available''; and

(2) by striking ''may'' and inserting ''shall''.

SEC. 4206. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this subtitle shall take effect on the date of enactment of this Act.

(b) SECTION 4202.—The amendments made by section 4202 of this subtitle shall take effect 30 days after the date of enactment of this Act.

Subtitle C—First Inventor Defense

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.

(a) DEFENSE.—Chapter 28 of title 35, United States Code, is amended by adding at the end the following new section:

''§ 273. Defense to infringement based on earlier inventor

''(a) DEFINITIONS.—For purposes of this section—

''(1) the terms 'commercially used' and 'commercial use' mean use of a method in the United States, so long as such use is in connection with an internal commercial use or an actual arm's-length sale or other arm's-length commercial transfer of a useful end result, whether or not the subject matter at issue is accessible to or otherwise known to the public, except that the subject matter for which commercial marketing or use is subject to a premarketing regulatory review period during which the safety or efficacy of the subject matter is established, including any period specified in section 156(g), shall be deemed 'commercially used' and in 'commercial use' during such regulatory review period;

''(2) in the case of activities performed by a nonprofit research laboratory, or nonprofit entity such as a university, research center, or hospital, a use for which the public is the intended beneficiary shall be considered to be a use described in paragraph (1), except that the use—

''(A) may be asserted as a defense under this section only for continued use by and in the laboratory or nonprofit entity; and

''(B) may not be asserted as a defense with respect to any subsequent commercialization or use outside such laboratory or nonprofit entity;

''(3) the term 'method' means a method of doing or conducting business; and

''(4) the 'effective filing date' of a patent is the earlier of the actual filing date of the application for the patent or the filing date of any earlier United States, foreign, or international application to which the subject matter at issue is entitled under section 119, 120, or 365 of this title.

''(b) DEFENSE TO INFRINGEMENT.—

''(1) IN GENERAL.—It shall be a defense to an action for infringement under section 271 of this title with respect to any subject matter that would otherwise infringe one or more claims for a method in the patent being asserted against a person, if such person had, acting in good faith, actually reduced the subject matter to practice at least one year before the effective filing date of such patent, and commercially used the subject matter before the effective filing date of such patent.

''(2) EXHAUSTION OF RIGHT.—The sale or other disposition of a useful end product produced by a patented method, by a person entitled to assert a defense under this section with respect to that useful end result shall exhaust the patent owner's rights under the patent to the extent such rights would have been exhausted had such sale or other disposition been made by the patent owner.

''(3) LIMITATIONS AND QUALIFICATIONS OF DEFENSE.—The defense to infringement under this section is subject to the following:

''(A) PATENT.—A person may not assert the defense under this section unless the invention for which the defense is asserted is for a method.

''(B) DERIVATION.—A person may not assert the defense under this section if the subject matter on which the defense is based was derived from the patentee or persons in privity with the patentee.

''(C) NOT A GENERAL LICENSE.—The defense asserted by a person under this section is not a general license under all claims of the patent at issue, but extends only to the specific subject matter claimed in the patent with respect to which the person can assert a defense under this chapter, except that the defense shall also extend to variations in the quantity or volume of use of the claimed subject matter, and to improvements in the claimed subject matter that do not infringe additional specifically claimed subject matter of the patent.

''(4) BURDEN OF PROOF.—A person asserting the defense under this section shall have the burden of establishing the defense by clear and convincing evidence.

''(5) ABANDONMENT OF USE.—A person who has abandoned commercial use of subject matter may not rely on activities performed before the date of such abandonment in establishing a defense under this section with respect to actions taken after the date of such abandonment.

''(6) PERSONAL DEFENSE.—The defense under this section may be asserted only by the person who performed the acts necessary to establish the defense and, except for any transfer to the patent owner, the right to assert the defense shall not be licensed or assigned or transferred to another person 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.

''(7) LIMITATION ON SITES.—A defense under this section, when acquired as part of a good faith assignment or transfer of an entire enterprise or line of business to which the defense relates, may only be asserted for uses at sites where the subject matter that would otherwise infringe one or more of the claims is in use before the later of the effective filing date of the patent or the date of the assignment or transfer of such enterprise or line of business.

''(8) UNSUCCESSFUL ASSERTION OF DEFENSE.—If the defense under this section is pleaded by a person who is found to infringe the patent and who subsequently fails to demonstrate a reasonable basis for asserting the defense, the court shall find the case exceptional for the purpose of awarding attorney fees under section 285 of this title.

''(9) INVALIDITY.—A patent shall not be deemed to be invalid under section 102 or 103 of this title solely because a defense is raised or established under this section.''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 28 of title 35, United States Code, is amended by adding at the end the following new item:

''273. Defense to infringement based on earlier inventor.''.

SEC. 4303. EFFECTIVE DATE AND APPLICABILITY.

This subtitle and the amendments made by this subtitle shall take effect on the date of enactment of this Act, but shall not apply to any action for infringement that is pending on such date of enactment or with respect to any subject matter for which an adjudication of infringement, including a consent judgment, has been made before such date of enactment.

Subtitle D—Patent Term Guarantee

SEC. 4401. SHORT TITLE.

This subtitle may be cited as the ''Patent Term Guarantee Act of 1999''.

SEC. 4402. PATENT TERM GUARANTEE AUTHORITY.

(a) ADJUSTMENT OF PATENT TERM.—Section 154(b) of title 35, United States Code, is amended to read as follows:

''(b) ADJUSTMENT OF PATENT TERM.—

''(1) PATENT TERM GUARANTEES.—

''(A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES.—Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to—

''(i) provide at least 1 of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after—

''(I) the date on which an application was filed under section 111(a) of this title; or

''(II) the date on which an international application fulfilled the requirements of section 371 of this title;

''(ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;

''(iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or

''(iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied,

the term of the patent shall be extended one day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.

''(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY.—Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including—

''(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

''(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

''(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C),

the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

''(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS.—Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to—

''(i) a proceeding under section 135(a);

''(ii) the imposition of an order under section 181; or

''(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability,

the term of the patent shall be extended one day for each day of the pendency of the proceeding, order, or review, as the case may be.

''(2) LIMITATIONS.—

''(A) IN GENERAL.—To the extent that periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

''(B) DISCLAIMED TERM.—No patent the term of which has been disclaimed beyond a specified date may be adjusted under this section beyond the expiration date specified in the disclaimer.

''(C) REDUCTION OF PERIOD OF ADJUSTMENT.—

''(i) The period of adjustment of the term of a patent under paragraph (1) shall be reduced by a period equal to the period of time during which the applicant failed to engage in reasonable efforts to conclude prosecution of the application.

''(ii) With respect to adjustments to patent term made under the authority of paragraph (1)(B), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant.

''(iii) The Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application.

''(3) PROCEDURES FOR PATENT TERM ADJUSTMENT DETERMINATION.—

''(A) The Director shall prescribe regulations establishing procedures for the application for and determination of patent term adjustments under this subsection.

''(B) Under the procedures established under subparagraph (A), the Director shall—

''(i) make a determination of the period of any patent term adjustment under this subsection, and shall transmit a notice of that determination with the written notice of allowance of the application under section 151; and

''(ii) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director.

''(C) The Director shall reinstate all or part of the cumulative period of time of an adjustment under paragraph (2)(C) if the applicant, prior to the issuance of the patent, makes a showing that, in spite of all due care, the applicant was unable to respond within the 3-month period, but in no case shall more than 3 additional months for each such response beyond the original 3-month period be reinstated.

''(D) The Director shall proceed to grant the patent after completion of the Director's determination of a patent term adjustment under the procedures established under this subsection, notwithstanding any appeal taken by the applicant of such determination.

''(4) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION.—

''(A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

''(B) The determination of a patent term adjustment under this subsection shall not be subject to appeal or challenge by a third party prior to the grant of the patent.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 282 of title 35, United States Code, is amended in the fourth paragraph by striking ''156 of this title'' and inserting ''154(b) or 156 of this title''.

(2) Section 1295(a)(4)(C) of title 28, United States Code, is amended by striking ''145 or 146'' and inserting ''145, 146, or 154(b)''.

SEC. 4403. CONTINUED EXAMINATION OF PATENT APPLICATIONS.

Section 132 of title 35, United States Code, is amended—

(1) in the first sentence by striking ''Whenever'' and inserting ''(a) Whenever''; and

(2) by adding at the end the following:

''(b) The Director shall prescribe regulations to provide for the continued examination of applications for patent at the request of the applicant. The Director may establish appropriate fees for such continued examination and shall provide a 50 percent reduction in such fees for small entities that qualify for reduced fees under section 41(h)(1) of this title.''.

SEC. 4404. TECHNICAL CLARIFICATION.

Section 156(a) of title 35, United States Code, is amended in the matter preceding paragraph (1) by inserting '', which shall include any patent term adjustment granted under section 154(b),'' after ''the original expiration date of the patent''.

SEC. 4405. EFFECTIVE DATE.

(a) AMENDMENTS MADE BY SECTIONS 4402 AND 4404.—The amendments made by sections 4402 and 4404 shall take effect on the date that is 6 months after the date of enactment of this Act and, except for a design patent application filed under chapter 16 of title 35, United States Code, shall apply to any application filed on or after the date that is 6 months after the date of enactment of this Act.

(b) AMENDMENTS MADE BY SECTION 4403.—The amendments made by section 4403—

(1) shall take effect on the date that is 6 months after the date of enactment of this Act, and shall apply to all applications filed under section 111(a) of title 35, United States Code, on or after June 8, 1995, and all applications complying with section 371 of title 35, United States Code, that resulted from international applications filed on or after June 8, 1995; and

(2) do not apply to applications for design patents under chapter 16 of title 35, United States Code.

Subtitle E—Domestic Publication of Patent Applications Published Abroad

SEC. 4501. SHORT TITLE.

This subtitle may be cited as the ''Domestic Publication of Foreign Filed Patent Applications Act of 1999''.

SEC. 4502. PUBLICATION.

(a) PUBLICATION.—Section 122 of title 35, United States Code, is amended to read as follows:

''§122. Confidential status of applications; publication of patent applications

''(a) CONFIDENTIALITY.—Except as provided in subsection (b), applications for patents shall be kept in confidence by the Patent and Trademark Office and no information concerning the same given without authority of the applicant or owner unless necessary to carry out the provisions of an Act of Congress or in such special circumstances as may be determined by the Director.

''(b) PUBLICATION.—

''(1) IN GENERAL.—(A) Subject to paragraph (2), each application for a patent shall be published, in accordance with procedures determined by the Director, promptly after the expiration of a period of 18 months from the earliest filing date for which a benefit is sought under this title. At the request of the applicant, an application may be published earlier than the end of such 18-month period.

''(B) No information concerning published patent applications shall be made available to the public except as the Director determines.

''(C) Notwithstanding any other provision of law, a determination by the Director to release or not to release information concerning a published patent application shall be final and nonreviewable.

''(2) EXCEPTIONS.—(A) An application shall not be published if that application is—

''(i) no longer pending;

''(ii) subject to a secrecy order under section 181 of this title;

''(iii) a provisional application filed under section 111(b) of this title; or

''(iv) an application for a design patent filed under chapter 16 of this title.

''(B)(i) If an applicant makes a request upon filing, certifying that the invention disclosed in the application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing, the application shall not be published as provided in paragraph (1).

''(ii) An applicant may rescind a request made under clause (i) at any time.

''(iii) An applicant who has made a request under clause (i) but who subsequently files, in a foreign country or under a multilateral international agreement specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days after the date of the filing of such foreign or international application. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional.

''(iv) If an applicant rescinds a request made under clause (i) or notifies the Director that an application was filed in a foreign country or under a multilateral international agreement specified in clause (i), the application shall be published in accordance with the provisions of paragraph (1) on or as soon as is practical after the date that is specified in clause (i).

''(v) If an applicant has filed applications in one or more foreign countries, directly or through a multilateral international agreement, and such foreign filed applications corresponding to an application filed in the Patent and Trademark Office or the description of the invention in such foreign filed applications is less extensive than the application or description of the invention in the application filed in the Patent and Trademark Office, the applicant may submit a redacted copy of the application filed in the Patent and Trademark Office eliminating any part or description of the invention in such application that is not also contained in any of the corresponding applications filed in a foreign country. The Director may only publish the redacted copy of the application unless the redacted copy of the application is not received within 16 months after the earliest effective filing date for which a benefit is sought under this title. The provisions of section 154(d) shall not apply to a claim if the description of the invention published in the redacted application filed under this clause with respect to the claim does not enable a person skilled in the art to make and use the subject matter of the claim.

''(c) PROTEST AND PRE-ISSUANCE OPPOSITION.—The Director shall establish appropriate 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 of the application without the express written consent of the applicant.

''(d) NATIONAL SECURITY.—No application for patent shall be published under subsection (b)(1) if the publication or disclosure of such invention would be detrimental to the national security. The Director shall 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 this title.''.

(b) STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a 3-year study of the applicants who file only in the United States on or after the effective date of this subtitle and shall provide the results of such study to the Judiciary Committees of the House of Representatives and the Senate.

(2) CONTENTS.—The study conducted under paragraph (1) shall—

(A) consider the number of such applicants in relation to the number of applicants who file in the United States and outside of the United States;

(B) examine how many domestic-only filers request at the time of filing not to be published;

(C) examine how many such filers rescind that request or later choose to file abroad;

(D) examine the status of the entity seeking an application and any correlation that may exist between such status and the publication of patent applications; and

(E) examine the abandonment/issuance ratios and length of application pendency before patent issuance or abandonment for published versus unpublished applications.

SEC. 4503. TIME FOR CLAIMING BENEFIT OF EARLIER FILING DATE.

(a) IN A FOREIGN COUNTRY.—Section 119(b) of title 35, United States Code, is amended to read as follows:

''(b)(1) No application for patent shall be entitled to this right of priority unless a claim is filed in the Patent and Trademark Office, identifying the foreign application by specifying the application number on that foreign application, the intellectual property authority or country in or for which the application was filed, and the date of filing the application, at such time during the pendency of the application as required by the Director.

''(2) The Director may consider the failure of the applicant to file a timely claim for priority

as a waiver of any such claim. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed claim under this section.

''(3) The Director may require a certified copy of the original foreign application, specification, and drawings upon which it is based, a translation if not in the English language, and such other information as the Director considers necessary. Any such certification shall be made by the foreign intellectual property authority in which the foreign application was filed and show the date of the application and of the filing of the specification and other papers.''.

(b) IN THE UNITED STATES.—

(1) IN GENERAL.—Section 120 of title 35, United States Code, is amended by adding at the end the following: ''No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section.''.

(2) RIGHT OF PRIORITY.—Section 119(e)(1) of title 35, United States Code, is amended by adding at the end the following: ''No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this subsection during the pendency of the application.''.

SEC. 4504. PROVISIONAL RIGHTS.

Section 154 of title 35, United States Code, is amended—

(1) in the section caption by inserting ''**; provisional rights**'' after ''**patent**''; and

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

''(d) PROVISIONAL RIGHTS.—

''(1) IN GENERAL.—In addition to other rights provided by this section, a patent shall include the right to obtain a reasonable royalty from any person who, during the period beginning on the date of publication of the application for such patent under section 122(b), or in the case of an international application filed under the treaty defined in section 351(a) designating the United States under Article 21(2)(a) of such treaty, the date of publication of the application, and ending on the date the patent is issued—

''(A)(i) makes, uses, offers for sale, or sells in the United States the invention as claimed in the published patent application or imports such an invention into the United States; or

''(ii) if the invention as claimed in the published patent application is a process, uses, offers for sale, or sells in the United States or imports into the United States products made by that process as claimed in the published patent application; and

''(B) had actual notice of the published patent application and, in a case in which the right arising under this paragraph is based upon an international application designating the United States that is published in a language other than English, had a translation of the international application into the English language.

''(2) RIGHT BASED ON SUBSTANTIALLY IDENTICAL INVENTIONS.—The right under paragraph (1) to obtain a reasonable royalty shall not be available under this subsection unless the invention as claimed in the patent is substantially identical to the invention as claimed in the published patent application.

''(3) TIME LIMITATION ON OBTAINING A REASONABLE ROYALTY.—The right under paragraph (1) to obtain a reasonable royalty shall be available only in an action brought not later than 6 years after the patent is issued. The right under paragraph (1) to obtain a reasonable royalty shall not be affected by the duration of the period described in paragraph (1).

''(4) REQUIREMENTS FOR INTERNATIONAL APPLICATIONS.—

''(A) EFFECTIVE DATE.—The right under paragraph (1) to obtain a reasonable royalty based upon the publication under the treaty defined in section 351(a) of an international application designating the United States shall commence on the date on which the Patent and Trademark Office receives a copy of the publication under the treaty of the international application, or, if the publication under the treaty of the international application is in a language other than English, on the date on which the Patent and Trademark Office receives a translation of the international application in the English language.

''(B) COPIES.—The Director may require the applicant to provide a copy of the international application and a translation thereof.''.

SEC. 4505. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.

Section 102(e) of title 35, United States Code, is amended to read as follows:

''(e) The invention was described in—

''(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

''(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a); or''.

SEC. 4506. COST RECOVERY FOR PUBLICATION.

The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall recover the cost of early publication required by the amendment made by section 4502 by charging a separate publication fee after notice of allowance is given under section 151 of title 35, United States Code.

SEC. 4507. CONFORMING AMENDMENTS.

The following provisions of title 35, United States Code, are amended:

(1) Section 11 is amended in paragraph 1 of subsection (a) by inserting ''and published applications for patents'' after ''Patents''.

(2) Section 12 is amended—

(A) in the section caption by inserting ''**and applications**'' after ''**patents**''; and

(B) by inserting ''and published applications for patents'' after ''patents''.

(3) Section 13 is amended—

(A) in the section caption by inserting ''**and applications**'' after ''**patents**''; and

(B) by inserting ''and published applications for patents'' after ''patents''.

(4) The items relating to sections 12 and 13 in the table of sections for chapter 1 are each amended by inserting ''and applications'' after ''patents''.

(5) The item relating to section 122 in the table of sections for chapter 11 is amended by inserting ''; publication of patent applications'' after ''applications''.

(6) The item relating to section 154 in the table of sections for chapter 14 is amended by inserting ''; provisional rights'' after ''patent''.

(7) Section 181 is amended—

(A) in the first undesignated paragraph—

(i) by inserting ''by the publication of an application or'' after ''disclosure''; and

(ii) by inserting ''the publication of the application or'' after ''withhold'';

(B) in the second undesignated paragraph by inserting ''by the publication of an application or'' after ''disclosure of an invention'';

(C) in the third undesignated paragraph—

(i) by inserting ''by the publication of the application or'' after ''disclosure of the invention''; and

(ii) by inserting ''the publication of the application or'' after ''withhold''; and

(D) in the fourth undesignated paragraph by inserting ''the publication of an application or'' after ''and'' in the first sentence.

(8) Section 252 is amended in the first undesignated paragraph by inserting ''substantially'' before ''identical'' each place it appears.

(9) Section 284 is amended by adding at the end of the second undesignated paragraph the following: ''Increased damages under this paragraph shall not apply to provisional rights under section 154(d) of this title.''.

(10) Section 374 is amended to read as follows:

''§374. Publication of international application

''The publication under the treaty defined in section 351(a) of this title, of an international application designating the United States shall confer the same rights and shall have the same effect under this title as an application for patent published under section 122(b), except as provided in sections 102(e) and 154(d) of this title.''.

(11) Section 135(b) is amended—

(A) by inserting ''(1)'' after ''(b)''; and

(B) by adding at the end the following:

''(2) A claim which is the same as, or for the same or substantially the same subject matter as, a claim of an application published under section 122(b) of this title may be made in an application filed after the application is published only if the claim is made before 1 year after the date on which the application is published.''.

SEC. 4508. EFFECTIVE DATE.

Sections 4502 through 4507, and the amendments made by such sections, shall take effect on the date that is 1 year after the date of enactment of this Act and shall apply to all applications filed under section 111 of title 35, United States Code, on or after that date, and all applications complying with section 371 of title 35, United States Code, that resulted from international applications filed on or after that date. The amendments made by sections 4504 and 4505 shall apply to any such application voluntarily published by the applicant under procedures established under this subtitle that is pending on the date that is 1 year after the date of enactment of this Act. The amendment made by section 4504 shall also apply to international applications designating the United States that are filed on or after the date that is 1 year after the date of enactment of this Act.

Subtitle F—Optional Inter Partes Reexamination Procedure

SEC. 4601. SHORT TITLE.

This subtitle may be cited as the ''Optional Inter Partes Reexamination Procedure Act of 1999''.

SEC. 4602. EX PARTE REEXAMINATION OF PATENTS.

The chapter heading for chapter 30 of title 35, United States Code, is amended by inserting ''**EX PARTE**'' before ''**REEXAMINATION OF PATENTS**''.

SEC. 4603. DEFINITIONS.

Section 100 of title 35, United States Code, is amended by adding at the end the following new subsection:

''(e) The term 'third-party requester' means a person requesting ex parte reexamination under section 302 or inter partes reexamination under section 311 who is not the patent owner.''.

SEC. 4604. OPTIONAL INTER PARTES REEXAMINATION PROCEDURES.

(a) IN GENERAL.—Part 3 of title 35, United States Code, is amended by adding after chapter 30 the following new chapter:

''CHAPTER 31—OPTIONAL INTER PARTES REEXAMINATION PROCEDURES

''§311. Request for inter partes reexamination

''(a) IN GENERAL.—Any person at any time may file a request for inter partes reexamination by the Office of a patent on the basis of any prior art cited under the provisions of section 301.

''(b) REQUIREMENTS.—The request shall—

''(1) be in writing, include the identity of the real party in interest, and be accompanied by payment of an inter partes reexamination fee established by the Director under section 41; and

''(2) set forth the pertinency and manner of applying cited prior art to every claim for which reexamination is requested.

''(c) COPY.—Unless the requesting person is the owner of the patent, the Director promptly shall send a copy of the request to the owner of record of the patent.

''§312. Determination of issue by Director

''(a) REEXAMINATION.—Not later than 3 months after the filing of a request for inter partes reexamination under section 311, the Director shall determine whether a substantial new question of patentability affecting any claim of the patent concerned is raised by the request, with or without consideration of other patents or printed publications. On the Director's initiative, and at any time, the Director may determine whether a substantial new question of patentability is raised by patents and publications.

''(b) RECORD.—A record of the Director's determination under subsection (a) shall be placed in the official file of the patent, and a copy shall be promptly given or mailed to the owner of record of the patent and to the third-party requester, if any.

''(c) FINAL DECISION.—A determination by the Director under subsection (a) shall be final and non-appealable. Upon a determination that no substantial new question of patentability has been raised, the Director may refund a portion of the inter partes reexamination fee required under section 311.

''§313. Inter partes reexamination order by Director

''If, in a determination made under section 312(a), the Director finds that a substantial new question of patentability affecting a claim of a patent is raised, the determination shall include an order for inter partes reexamination of the patent for resolution of the question. The order may be accompanied by the initial action of the Patent and Trademark Office on the merits of the inter partes reexamination conducted in accordance with section 314.

''§314. Conduct of inter partes reexamination proceedings

''(a) IN GENERAL.—Except as otherwise provided in this section, reexamination shall be conducted according to the procedures established for initial examination under the provisions of sections 132 and 133. In any inter partes reexamination proceeding under this chapter, the patent owner shall be permitted to propose any amendment to the patent and a new claim or claims, except that no proposed amended or new claim enlarging the scope of the claims of the patent shall be permitted.

''(b) RESPONSE.—(1) This subsection shall apply to any inter partes reexamination proceeding in which the order for inter partes reexamination is based upon a request by a third-party requester.

''(2) 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 shall receive a copy of any communication sent by the Office to the patent owner concerning the patent subject to the inter partes reexamination proceeding.

''(3) Each time that the patent owner files a response to an action on the merits from the Patent and Trademark Office, the third-party requester shall have one opportunity to file written comments addressing issues raised by the action of the Office or the patent owner's response thereto, if those written comments are received by the Office within 30 days after the date of service of the patent owner's response.

''(c) SPECIAL DISPATCH.—Unless otherwise provided by the Director for good cause, all inter partes reexamination proceedings under this section, including any appeal to the Board of Patent Appeals and Interferences, shall be conducted with special dispatch within the Office.

''§315. Appeal

''(a) PATENT OWNER.—The patent owner involved in an inter partes reexamination proceeding under this chapter—

''(1) may appeal under the provisions of section 134 and may appeal under the provisions of sections 141 through 144, with respect to any decision adverse to the patentability of any original or proposed amended or new claim of the patent; and

''(2) may be a party to any appeal taken by a third-party requester under subsection (b).

''(b) THIRD-PARTY REQUESTER.—A third-party requester may—

''(1) appeal under the provisions of section 134 with respect to any final decision favorable to the patentability of any original or proposed amended or new claim of the patent; or

''(2) be a party to any appeal taken by the patent owner under the provisions of section 134, subject to subsection (c).

''(c) CIVIL ACTION.—A third-party requester whose request for an inter partes reexamination results in an order under section 313 is estopped from asserting at a later time, in any civil action arising in whole or in part under section 1338 of title 28, the invalidity of any claim finally determined to be valid and patentable on any ground which the third-party requester raised or could have raised during the inter partes reexamination proceedings. This subsection does not prevent the assertion of invalidity based on newly discovered prior art unavailable to the third-party requester and the Patent and Trademark Office at the time of the inter partes reexamination proceedings.

''§316. Certificate of patentability, unpatentability, and claim cancellation

''(a) IN GENERAL.—In an inter partes reexamination proceeding under this chapter, when the time for appeal has expired or any appeal proceeding has terminated, the Director shall issue and publish a certificate canceling any claim of the patent finally determined to be unpatentable, confirming any claim of the patent determined to be patentable, and incorporating in the patent any proposed amended or new claim determined to be patentable.

''(b) AMENDED OR NEW CLAIM.—Any proposed amended or new claim determined to be patentable and incorporated into a patent following an inter partes reexamination proceeding shall have the same effect as that specified in section 252 of this title for reissued patents on the right of any person who made, purchased, or used within the United States, or imported into the United States, anything patented by such proposed amended or new claim, or who made substantial preparation therefor, prior to issuance of a certificate under the provisions of subsection (a) of this section.

''§317. Inter partes reexamination prohibited

''(a) ORDER FOR REEXAMINATION.—Notwithstanding any provision of this chapter, once an order for inter partes reexamination of a patent has been issued under section 313, neither the patent owner nor the third-party requester, if any, nor privies of either, may file a subsequent request for inter partes reexamination of the patent until an inter partes reexamination certificate is issued and published under section 316, unless authorized by the Director.

''(b) FINAL DECISION.—Once a final decision has been entered against a party in a civil action arising in whole or in part under section 1338 of title 28 that the party has not sustained its burden of proving the invalidity of any patent claim in suit or if a final decision in an inter partes reexamination proceeding instituted by a third-party requester is favorable to the patentability of any original or proposed amended or new claim of the patent, then neither that party nor its privies may thereafter request an inter partes reexamination of any such patent claim on the basis of issues which that party or its privies raised or could have raised in such civil action or inter partes reexamination proceeding, and an inter partes reexamination requested by that party or its privies on the basis of such issues may not thereafter be maintained by the Office, notwithstanding any other provision of this chapter. This subsection does not prevent the assertion of invalidity based on newly discovered prior art unavailable to the third-party requester and the Patent and Trademark Office at the time of the inter partes reexamination proceedings.

''§318. Stay of litigation

''Once an order for inter partes reexamination of a patent has been issued under section 313, the patent owner may obtain a stay of any pending litigation which involves an issue of patentability of any claims of the patent which are the subject of the inter partes reexamination order, unless the court before which such litigation is pending determines that a stay would not serve the interests of justice.''.

(b) CONFORMING AMENDMENT.—The table of chapters for part III of title 25, United States Code, is amended by striking the item relating to chapter 30 and inserting the following:

SEC. 4605. CONFORMING AMENDMENTS.

(a) PATENT FEES; PATENT SEARCH SYSTEMS.—Section 41(a)(7) of title 35, United States Code, is amended to read as follows:

''(7) On filing each petition for the revival of an unintentionally abandoned application for a patent, for the unintentionally delayed payment of the fee for issuing each patent, or for an unintentionally delayed response by the patent owner in any reexamination proceeding, $1,210, unless the petition is filed under section 133 or 151 of this title, in which case the fee shall be $110.''.

(b) APPEAL TO THE BOARD OF PATENTS APPEALS AND INTERFERENCES.—Section 134 of title 35, United States Code, is amended to read as follows:

''§ 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 administrative patent judge 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 administrative patent judge to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

''(c) THIRD-PARTY.—A third-party requester in an inter partes proceeding may appeal to the Board of Patent Appeals and Interferences from the final decision of the administrative patent judge favorable to the patentability of any original or proposed amended or new claim of a patent, having once paid the fee for such appeal. The third-party requester may not appeal the decision of the Board of Patent Appeals and Interferences.''.

(c) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended by adding the following after the second sentence: ''A patent owner in any reexamination proceeding dissatisfied with the final decision in an appeal to the Board of Patent Appeals and Interferences under section 134 may appeal the decision only to the United States Court of Appeals for the Federal Circuit.''.

(d) PROCEEDINGS ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to read as follows: ''In any reexamination case, the Director shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal.''.

(e) CIVIL ACTION TO OBTAIN PATENT.—Section 145 of title 35, United States Code, is amended in the first sentence by inserting ''(a)'' after ''section 134''.

SEC. 4606. REPORT TO CONGRESS.

Not later than 5 years after the date of the enactment of this Act, the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall submit to the Congress a report evaluating whether the inter partes reexamination proceedings established under the amendments made by this subtitle are inequitable to any of the parties in interest and, if so, the report shall contain recommendations for changes to the amendments made by this subtitle to remove such inequity.

SEC. 4607. ESTOPPEL EFFECT OF REEXAMINATION.

Any party who requests an inter partes reexamination under section 311 of title 35, United States Code, is estopped from challenging at a later time, in any civil action, any fact determined during the process of such 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 decision. If this section is held to be unenforceable, the enforceability of the remainder of this subtitle or of this title shall not be denied as a result.

SEC. 4608. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of enactment of this Act and shall apply to any patent that issues from an original application filed in the United States on or after that date.

(b) SECTION 4605(a).—The amendments made by section 4605(a) shall take effect on the date that is 1 year after the date of enactment of this Act.

Subtitle G—Patent and Trademark Office

SEC. 4701. SHORT TITLE.

This subtitle may be cited as the ''Patent and Trademark Office Efficiency Act''.

CHAPTER 1—UNITED STATES PATENT AND TRADEMARK OFFICE

SEC. 4711. ESTABLISHMENT OF PATENT AND TRADEMARK OFFICE.

Section 1 of title 35, United States Code, is amended to read as follows:

''§ 1. Establishment

''(a) ESTABLISHMENT.—The United States Patent and Trademark Office is established as an agency of the United States, within the Department of Commerce. In carrying out its functions, the United States Patent and Trademark Office shall be subject to the policy direction of the Secretary of Commerce, but otherwise shall retain responsibility for decisions regarding the management and administration of its operations and shall exercise independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions in accordance with this title and applicable provisions of law. Those operations designed to grant and issue patents and those operations which are designed to facilitate the registration of trademarks shall be treated as separate operating units within the Office.

''(b) OFFICES.—The United States Patent and Trademark Office shall maintain its principal office in the metropolitan Washington, DC, area, for the service of process and papers and for the purpose of carrying out its functions. The United States Patent and Trademark Office shall be deemed, for purposes of venue in civil actions, to be a resident of the district in which its principal office is located, except where jurisdiction is otherwise provided by law. The United States Patent and Trademark Office may establish satellite offices in such other places in the United States as it considers necessary and appropriate in the conduct of its business.

''(c) REFERENCE.—For purposes of this title, the United States Patent and Trademark Office shall also be referred to as the 'Office' and the 'Patent and Trademark Office'.''.

SEC. 4712. POWERS AND DUTIES.

Section 2 of title 35, United States Code, is amended to read as follows:

''§ 2. Powers and duties

''(a) IN GENERAL.—The United States Patent and Trademark Office, subject to the policy direction of the Secretary of Commerce—

''(1) shall be responsible for the granting and issuing of patents and the registration of trademarks; and

''(2) shall be responsible for disseminating to the public information with respect to patents and trademarks.

''(b) SPECIFIC POWERS.—The Office—

''(1) shall adopt and use a seal of the Office, which shall be judicially noticed and with which letters patent, certificates of trademark registrations, and papers issued by the Office shall be authenticated;

''(2) may establish regulations, not inconsistent with law, which—

''(A) shall govern the conduct of proceedings in the Office;

''(B) shall be made in accordance with section 553 of title 5;

''(C) shall facilitate and expedite the processing of patent applications, particularly those which can be filed, stored, processed, searched, and retrieved electronically, subject to the provisions of section 122 relating to the confidential status of applications;

''(D) may govern the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the Office, and may require them, before being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation and are possessed of the necessary qualifications to render to applicants or other persons valuable service, advice, and assistance in the presentation or prosecution of their applications or other business before the Office;

''(E) shall recognize the public interest in continuing to safeguard broad access to the United States patent system through the reduced fee structure for small entities under section 41(h)(1) of this title; and

''(F) provide for the development of a performance-based process that includes quantitative and qualitative measures and standards for evaluating cost-effectiveness and is consistent with the principles of impartiality and competitiveness;

''(3) may acquire, construct, purchase, lease, hold, manage, operate, improve, alter, and renovate any real, personal, or mixed property, or any interest therein, as it considers necessary to carry out its functions;

''(4)(A) may make such purchases, contracts for the construction, maintenance, or management and operation of facilities, and contracts for supplies or services, without regard to the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Public Buildings Act (40 U.S.C. 601 et seq.), and the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.); and

''(B) may enter into and perform such purchases and contracts for printing services, including the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the products of such processes, as it considers necessary to carry out the functions of the Office, without regard to sections 501 through 517 and 1101 through 1123 of title 44;

''(5) may use, with their consent, services, equipment, personnel, and facilities of other departments, agencies, and instrumentalities of the Federal Government, on a reimbursable basis, and cooperate with such other departments, agencies, and instrumentalities in the establishment and use of services, equipment, and facilities of the Office;

''(6) may, when the Director determines that it is practicable, efficient, and cost-effective to do so, use, with the consent of the United States and the agency, instrumentality, patent and trademark office, or international organization concerned, the services, records, facilities, or personnel of any State or local government agency or instrumentality or foreign patent and trademark office or international organization to perform functions on its behalf;

''(7) may retain and use all of its revenues and receipts, including revenues from the sale, lease, or disposal of any real, personal, or mixed property, or any interest therein, of the Office;

''(8) shall advise the President, through the Secretary of Commerce, on national and certain international intellectual property policy issues;

''(9) shall advise Federal departments and agencies on matters of intellectual property policy in the United States and intellectual property protection in other countries;

''(10) shall provide guidance, as appropriate, with respect to proposals by agencies to assist foreign governments and international intergovernmental organizations on matters of intellectual property protection;

''(11) may conduct programs, studies, or exchanges of items or services regarding domestic and international intellectual property law and the effectiveness of intellectual property protection domestically and throughout the world;

''(12)(A) shall advise the Secretary of Commerce on programs and studies relating to intellectual property policy that are conducted, or authorized to be conducted, cooperatively with foreign intellectual property offices and international intergovernmental organizations; and

''(B) may conduct programs and studies described in subparagraph (A); and

''(13)(A) in coordination with the Department of State, may conduct programs and studies cooperatively with foreign intellectual property offices and international intergovernmental organizations; and

''(B) with the concurrence of the Secretary of State, may authorize the transfer of not to exceed $100,000 in any year to the Department of

State for the purpose of making special payments to international intergovernmental organizations for studies and programs for advancing international cooperation concerning patents, trademarks, and other matters.

''(c) CLARIFICATION OF SPECIFIC POWERS.—(1) The special payments under subsection (b)(13)(B) shall be in addition to any other payments or contributions to international organizations described in subsection (b)(13)(B) and shall not be subject to any limitations imposed by law on the amounts of such other payments or contributions by the United States Government.

''(2) Nothing in subsection (b) shall derogate from the duties of the Secretary of State or from the duties of the United States Trade Representative as set forth in section 141 of the Trade Act of 1974 (19 U.S.C. 2171).

''(3) Nothing in subsection (b) shall derogate from the duties and functions of the Register of Copyrights or otherwise alter current authorities relating to copyright matters.

''(4) In exercising the Director's powers under paragraphs (3) and (4)(A) of subsection (b), the Director shall consult with the Administrator of General Services.

''(5) In exercising the Director's powers and duties under this section, the Director shall consult with the Register of Copyrights on all copyright and related matters.

''(d) CONSTRUCTION.—Nothing in this section shall 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 United States Patent and Trademark Office.''.

SEC. 4713. ORGANIZATION AND MANAGEMENT.

Section 3 of title 35, United States Code, is amended to read as follows:

''§ 3. Officers and employees

''(a) UNDER SECRETARY AND DIRECTOR.—

''(1) IN GENERAL.—The powers and duties of the United States Patent and Trademark Office shall be vested in an Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (in this title referred to as the 'Director'), who shall be a citizen of the United States and who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be a person who has a professional background and experience in patent or trademark law.

''(2) DUTIES.—

''(A) IN GENERAL.—The Director shall be responsible for providing policy direction and management supervision for the Office and for the issuance of patents and the registration of trademarks. The Director shall perform these duties in a fair, impartial, and equitable manner.

''(B) CONSULTING WITH THE PUBLIC ADVISORY COMMITTEES.—The Director shall consult with the Patent Public Advisory Committee established in section 5 on a regular basis on matters relating to the patent operations of the Office, shall consult with the Trademark Public Advisory Committee established in section 5 on a regular basis on matters relating to the trademark operations of the Office, and shall consult with the respective Public Advisory Committee before submitting budgetary proposals to the Office of Management and Budget or changing or proposing to change patent or trademark user fees or patent or trademark regulations which are subject to the requirement to provide notice and opportunity for public comment under section 553 of title 5, as the case may be.

''(3) OATH.—The Director shall, before taking office, take an oath to discharge faithfully the duties of the Office.

''(4) REMOVAL.—The Director may be removed from office by the President. The President shall provide notification of any such removal to both Houses of Congress.

''(b) OFFICERS AND EMPLOYEES OF THE OFFICE.—

''(1) DEPUTY UNDER SECRETARY AND DEPUTY DIRECTOR.—The Secretary of Commerce, upon nomination by the Director, shall appoint a Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office who shall be vested with the authority to act in the capacity of the Director in the event of the absence or incapacity of the Director. The Deputy Director shall be a citizen of the United States who has a professional background and experience in patent or trademark law.

''(2) COMMISSIONERS.—

''(A) APPOINTMENT AND DUTIES.—The Secretary of Commerce shall appoint a Commissioner for Patents and a Commissioner for Trademarks, without regard to chapter 33, 51, or 53 of title 5. The Commissioner for Patents shall be a citizen of the United States with demonstrated management ability and professional background and experience in patent law and serve for a term of 5 years. The Commissioner for Trademarks shall be a citizen of the United States with demonstrated management ability and professional background and experience in trademark law and serve for a term of 5 years. The Commissioner for Patents and the Commissioner for Trademarks shall serve as the chief operating officers for the operations of the Office relating to patents and trademarks, respectively, and shall be responsible for the management and direction of all aspects of the activities of the Office that affect the administration of patent and trademark operations, respectively. The Secretary may reappoint a Commissioner to subsequent terms of 5 years as long as the performance of the Commissioner as set forth in the performance agreement in subparagraph (B) is satisfactory.

''(B) SALARY AND PERFORMANCE AGREEMENT.—The Commissioners shall be paid an annual rate of basic pay not to exceed the maximum rate of basic pay for the Senior Executive Service established under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of title 5. The compensation of the Commissioners shall be considered, for purposes of section 207(c)(2)(A) of title 18, to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of title 18. In addition, the Commissioners may receive a bonus in an amount of up to, but not in excess of, 50 percent of the Commissioners' annual rate of basic pay, based upon an evaluation by the Secretary of Commerce, acting through the Director, of the Commissioners' performance as defined in an annual performance agreement between the Commissioners and the Secretary. The annual performance agreements shall incorporate measurable organization and individual goals in key operational areas as delineated in an annual performance plan agreed to by the Commissioners and the Secretary. Payment of a bonus under this subparagraph may be made to the Commissioners only to the extent that such payment does not cause the Commissioners' total aggregate compensation in a calendar year to equal or exceed the amount of the salary of the Vice President under section 104 of title 3.

''(C) REMOVAL.—The Commissioners may be removed from office by the Secretary for misconduct or nonsatisfactory performance under the performance agreement described in subparagraph (B), without regard to the provisions of title 5. The Secretary shall provide notification of any such removal to both Houses of Congress.

''(3) OTHER OFFICERS AND EMPLOYEES.—The Director shall—

''(A) appoint such officers, employees (including attorneys), and agents of the Office as the Director considers necessary to carry out the functions of the Office; and

''(B) define the title, authority, and duties of such officers and employees and delegate to them such of the powers vested in the Office as the Director may determine.

The Office shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Office shall be taken into account for purposes of applying any such limitation.

''(4) TRAINING OF EXAMINERS.—The Office shall submit to the Congress a proposal to provide an incentive program to retain as employees patent and trademark examiners of the primary examiner grade or higher who are eligible for retirement, for the sole purpose of training patent and trademark examiners.

''(5) NATIONAL SECURITY POSITIONS.—The Director, in consultation with the Director of the Office of Personnel Management, shall maintain a program for identifying national security positions and providing for appropriate security clearances, in order to maintain the secrecy of certain inventions, as described in section 181, and to prevent disclosure of sensitive and strategic information in the interest of national security.

''(c) CONTINUED APPLICABILITY OF TITLE 5.—Officers and employees of the Office shall be subject to the provisions of title 5 relating to Federal employees.

''(d) ADOPTION OF EXISTING LABOR AGREEMENTS.—The Office shall adopt all labor agreements which are in effect, as of the day before the effective date of the Patent and Trademark Office Efficiency Act, with respect to such Office (as then in effect).

''(e) CARRYOVER OF PERSONNEL.—

''(1) FROM PTO.—Effective as of the effective date of the Patent and Trademark Office Efficiency Act, all officers and employees of the Patent and Trademark Office on the day before such effective date shall become officers and employees of the Office, without a break in service.

''(2) OTHER PERSONNEL.—Any individual who, on the day before the effective date of the Patent and Trademark Office Efficiency Act, is an officer or employee of the Department of Commerce (other than an officer or employee under paragraph (1)) shall be transferred to the Office, as necessary to carry out the purposes of this Act, if—

''(A) such individual serves in a position for which a major function is the performance of work reimbursed by the Patent and Trademark Office, as determined by the Secretary of Commerce;

''(B) such individual serves in a position that performed work in support of the Patent and Trademark Office during at least half of the incumbent's work time, as determined by the Secretary of Commerce; or

''(C) such transfer would be in the interest of the Office, as determined by the Secretary of Commerce in consultation with the Director.

Any transfer under this paragraph shall be effective as of the same effective date as referred to in paragraph (1), and shall be made without a break in service.

''(f) TRANSITION PROVISIONS.—

''(1) INTERIM APPOINTMENT OF DIRECTOR.—On or after the effective date of the Patent and Trademark Office Efficiency Act, the President shall appoint an individual to serve as the Director until the date on which a Director qualifies under subsection (a). The President shall not make more than one such appointment under this subsection.

''(2) CONTINUATION IN OFFICE OF CERTAIN OFFICERS.—(A) The individual serving as the Assistant Commissioner for Patents on the day before the effective date of the Patent and Trademark Office Efficiency Act may serve as the Commissioner for Patents until the date on which a Commissioner for Patents is appointed under subsection (b).

''(B) The individual serving as the Assistant Commissioner for Trademarks on the day before the effective date of the Patent and Trademark Office Efficiency Act may serve as the Commissioner for Trademarks until the date on which

a Commissioner for Trademarks is appointed under subsection (b).''.

SEC. 4714. PUBLIC ADVISORY COMMITTEES.

Chapter 1 of part I of title 35, United States Code, is amended by inserting after section 4 the following:

''§ 5. Patent and Trademark Office Public Advisory Committees

''(a) ESTABLISHMENT OF PUBLIC ADVISORY COMMITTEES.—

''(1) APPOINTMENT.—The United States Patent and Trademark Office shall have a Patent Public Advisory Committee and a Trademark Public Advisory Committee, each of which shall have nine voting members who shall be appointed by the Secretary of Commerce and serve at the pleasure of the Secretary of Commerce. Members of each Public Advisory Committee shall be appointed for a term of 3 years, except that of the members first appointed, three shall be appointed for a term of 1 year, and three shall be appointed for a term of 2 years. In making appointments to each Committee, the Secretary of Commerce shall consider the risk of loss of competitive advantage in international commerce or other harm to United States companies as a result of such appointments.

''(2) CHAIR.—The Secretary shall designate a chair of each Advisory Committee, whose term as chair shall be for 3 years.

''(3) TIMING OF APPOINTMENTS.—Initial appointments to each Advisory Committee shall be made within 3 months after the effective date of the Patent and Trademark Office Efficiency Act. Vacancies shall be filled within 3 months after they occur.

''(b) BASIS FOR APPOINTMENTS.—Members of each Advisory Committee—

''(1) shall be citizens of the United States who shall be chosen so as to represent the interests of diverse users of the United States Patent and Trademark Office with respect to patents, in the case of the Patent Public Advisory Committee, and with respect to trademarks, in the case of the Trademark Public Advisory Committee;

''(2) shall include members who represent small and large entity applicants located in the United States in proportion to the number of applications filed by such applicants, but in no case shall members who represent small entity patent applicants, including small business concerns, independent inventors, and nonprofit organizations, constitute less than 25 percent of the members of the Patent Public Advisory Committee, and such members shall include at least one independent inventor; and

''(3) shall include individuals with substantial background and achievement in finance, management, labor relations, science, technology, and office automation.

In addition to the voting members, each Advisory Committee shall include a representative of each labor organization recognized by the United States Patent and Trademark Office. Such representatives shall be nonvoting members of the Advisory Committee to which they are appointed.

''(c) MEETINGS.—Each Advisory Committee shall meet at the call of the chair to consider an agenda set by the chair.

''(d) DUTIES.—Each Advisory Committee shall—

''(1) review the policies, goals, performance, budget, and user fees of the United States Patent and Trademark Office with respect to patents, in the case of the Patent Public Advisory Committee, and with respect to Trademarks, in the case of the Trademark Public Advisory Committee, and advise the Director on these matters;

''(2) within 60 days after the end of each fiscal year—

''(A) prepare an annual report on the matters referred to in paragraph (1);

''(B) transmit the report to the Secretary of Commerce, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and

''(C) publish the report in the Official Gazette of the United States Patent and Trademark Office.

''(e) COMPENSATION.—Each member of each Advisory Committee shall be compensated for each day (including travel time) during which such member is attending meetings or conferences of that Advisory Committee or otherwise engaged in the business of that Advisory Committee, at the rate which is the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of title 5. While away from such member's home or regular place of business such member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

''(f) ACCESS TO INFORMATION.—Members of each Advisory Committee shall be provided access to records and information in the United States Patent and Trademark Office, except for personnel or other privileged information and information concerning patent applications required to be kept in confidence by section 122.

''(g) APPLICABILITY OF CERTAIN ETHICS LAWS.—Members of each Advisory Committee shall be special Government employees within the meaning of section 202 of title 18.

''(h) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to each Advisory Committee.

''(i) OPEN MEETINGS.—The meetings of each Advisory Committee shall be open to the public, except that each Advisory Committee may by majority vote meet in executive session when considering personnel or other confidential information.''.

SEC. 4715. CONFORMING AMENDMENTS.

(a) DUTIES.—Chapter 1 of title 35, United States Code, is amended by striking section 6.

(b) REGULATIONS FOR AGENTS AND ATTORNEYS.—Section 31 of title 35, United States Code, and the item relating to such section in the table of sections for chapter 3 of title 35, United States Code, are repealed.

(c) SUSPENSION OR EXCLUSION FROM PRACTICE.—Section 32 of title 35, United States Code, is amended by striking ''31'' and inserting ''2(b)(2)(D)''.

SEC. 4716. TRADEMARK TRIAL AND APPEAL BOARD.

Section 17 of the Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946'') (15 U.S.C. 1067) is amended to read as follows:

''SEC. 17. (a) In every case of interference, opposition to registration, application to register as a lawful concurrent user, or application to cancel the registration of a mark, the Director shall give notice to all parties and shall direct a Trademark Trial and Appeal Board to determine and decide the respective rights of registration.

''(b) The Trademark Trial and Appeal Board shall include the Director, the Commissioner for Patents, the Commissioner for Trademarks, and administrative trademark judges who are appointed by the Director.''.

SEC. 4717. BOARD OF PATENT APPEALS AND INTERFERENCES.

Chapter 1 of title 35, United States Code, is amended—

(1) by striking section 7 and redesignating sections 8 through 14 as sections 7 through 13, respectively; and

(2) by inserting after section 5 the following:

''§ 6. Board of Patent Appeals and Interferences

''(a) ESTABLISHMENT AND COMPOSITION.—There shall be in the United States Patent and Trademark Office a Board of Patent Appeals and Interferences. The Director, the Commissioner for Patents, the Commissioner for Trademarks, and the administrative patent judges shall constitute the Board. The administrative patent judges shall be persons of competent legal knowledge and scientific ability who are appointed by the Director.

''(b) DUTIES.—The Board of Patent Appeals and Interferences shall, on written appeal of an applicant, review adverse decisions of examiners upon applications for patents and shall determine priority and patentability of invention in interferences declared under section 135(a). Each appeal and interference shall be heard by at least 3 members of the Board, who shall be designated by the Director. Only the Board of Patent Appeals and Interferences may grant rehearings.''.

SEC. 4718. ANNUAL REPORT OF DIRECTOR.

Section 13 of title 35, United States Code, as redesignated by section 4717 of this subtitle, is amended to read as follows:

''§ 13. Annual report to Congress

''The Director shall report to the Congress, not later than 180 days after the end of each fiscal year, the moneys received and expended by the Office, the purposes for which the moneys were spent, the quality and quantity of the work of the Office, the nature of training provided to examiners, the evaluation of the Commissioner of Patents and the Commissioner of Trademarks by the Secretary of Commerce, the compensation of the Commissioners, and other information relating to the Office.''.

SEC. 4719. SUSPENSION OR EXCLUSION FROM PRACTICE.

Section 32 of title 35, United States Code, is amended by inserting before the last sentence the following: ''The Director shall have the discretion to designate any attorney who is an officer or employee of the United States Patent and Trademark Office to conduct the hearing required by this section.''.

SEC. 4720. PAY OF DIRECTOR AND DEPUTY DIRECTOR.

(a) PAY OF DIRECTOR.—Section 5314 of title 5, United States Code, is amended by striking:

''Assistant Secretary of Commerce and Commissioner of Patents and Trademarks.''.

and inserting:

''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.''.

(b) PAY OF DEPUTY DIRECTOR.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

''Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.''.

CHAPTER 2—EFFECTIVE DATE; TECHNICAL AMENDMENTS

SEC. 4731. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect 4 months after the date of enactment of this Act.

SEC. 4732. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS TO TITLE 35.—

(1) The item relating to part I in the table of parts for chapter 35, United States Code, is amended to read as follows:

''I. United States Patent and Trademark Office ..... 1''.

(2) The heading for part I of title 35, United States Code, is amended to read as follows:

''PART I—UNITED STATES PATENT AND TRADEMARK OFFICE''.

(3) The table of chapters for part I of title 35, United States Code, is amended by amending the item relating to chapter 1 to read as follows:

''1. Establishment, Officers and Employees, Functions ..... 1''.

(4) The table of sections for chapter 1 of title 35, United States Code, is amended to read as follows:

''CHAPTER 1—ESTABLISHMENT, OFFICERS AND EMPLOYEES, FUNCTIONS

''Sec.
'' 1. Establishment.
'' 2. Powers and duties.
'' 3. Officers and employees.

(5) Section 41(h) of title 35, United States Code, is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Director''.

(6) Section 155 of title 35, United States Code, is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Director''.

(7) Section 155A(c) of title 35, United States Code, is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Director''.

(8) Section 302 of title 35, United States Code, is amended by striking ''Commissioner of Patents'' and inserting ''Director''.

(9)(A) Section 303 of title 35, United States Code, is amended—

(i) in the section heading by striking ''***Commissioner***'' and inserting ''***Director***''; and

(ii) by striking ''Commissioner's'' and inserting ''Director's''.

(B) The item relating to section 303 in the table of sections for chapter 30 of title 35, United States Code, is amended by striking ''Commissioner'' and inserting ''Director''.

(10)(A) Except as provided in subparagraph (B), title 35, United States Code, is amended by striking ''Commissioner'' each place it appears and inserting ''Director''.

(B) Chapter 17 of title 35, United States Code, is amended by striking ''Commissioner'' each place it appears and inserting ''Commissioner of Patents''.

(11) Section 157(d) of title 35, United States Code, is amended by striking ''Secretary of Commerce'' and inserting ''Director''.

(12) Section 202(a) of title 35, United States Code, is amended—

(A) by striking ''iv)'' and inserting ''(iv)''; and

(B) by striking the second period after ''Department of Energy'' at the end of the first sentence.

(b) OTHER PROVISIONS OF LAW.—

(1)(A) Section 45 of the Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946''; 15 U.S.C. 1127), is amended by striking ''The term 'Commissioner'' means the Commissioner of Patents and Trademarks.' and inserting ''The term 'Director' means the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.''.

(B) The Act of July 5, 1946 (commonly referred to as the ''Trademark Act of 1946''; 15 U.S.C. 1051 and following), except for section 17, as amended by 4716 of this subtitle, is amended by striking ''Commissioner'' each place it appears and inserting ''Director''.

(C) Sections 8(e) and 9(b) of the Trademark Act of 1946 are each amended by striking ''Commissioner'' and inserting ''Director''.

(2) Section 500(e) of title 5, United States Code, is amended by striking ''Patent Office'' and inserting ''United States Patent and Trademark Office''.

(3) Section 5102(c)(23) of title 5, United States Code, is amended to read as follows:

''(23) administrative patent judges and designated administrative patent judges in the United States Patent and Trademark Office;''.

(4) Section 5316 of title 5, United States Code (5 U.S.C. 5316) is amended by striking ''Commissioner of Patents, Department of Commerce.'', ''Deputy Commissioner of Patents and Trademarks.'', ''Assistant Commissioner for Patents.'', and ''Assistant Commissioner for Trademarks.''.

(5) Section 9(p)(1)(B) of the Small Business Act (15 U.S.C. 638(p)(1)(B)) is amended to read as follows:

''(B) the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office; and''.

(6) Section 12 of the Act of February 14, 1903 (15 U.S.C. 1511) is amended—

(A) by striking ''(d) Patent and Trademark Office;'' and inserting:

''(4) United States Patent and Trademark Office''; and

(B) by redesignating subsections (a), (b), (c), (e), (f), and (g) as paragraphs (1), (2), (3), (5), (6), and (7), respectively and indenting the paragraphs as so redesignated 2 ems to the right.

(7) Section 19 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831r) is amended—

(A) by striking ''Patent Office of the United States'' and inserting ''United States Patent and Trademark Office''; and

(B) by striking ''Commissioner of Patents'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''.

(8) Section 182(b)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2242(b)(2)(A)) is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''.

(9) Section 302(b)(2)(D) of the Trade Act of 1974 (19 U.S.C. 2412(b)(2)(D)) is amended by striking ''Commissioner of Patents and Trademarks'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''.

(10) The Act of April 12, 1892 (27 Stat. 395; 20 U.S.C. 91) is amended by striking ''Patent Office'' and inserting ''United States Patent and Trademark Office''.

(11) Sections 505(m) and 512(o) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(m) and 360b(o)) are each amended by striking ''Patent and Trademark Office of the Department of Commerce'' and inserting ''United States Patent and Trademark Office''.

(12) Section 702(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372(d)) is amended by striking ''Commissioner of Patents'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office'' and by striking ''Commissioner'' and inserting ''Director''.

(13) Section 105(e) of the Federal Alcohol Administration Act (27 U.S.C. 205(e)) is amended by striking ''United States Patent Office'' and inserting ''United States Patent and Trademark Office''.

(14) Section 1295(a)(4) of title 28, United States Code, is amended—

(A) in subparagraph (A) by inserting ''United States'' before ''Patent and Trademark''; and

(B) in subparagraph (B) by striking ''Commissioner of Patents and Trademarks'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''.

(15) Chapter 115 of title 28, United States Code, is amended—

(A) in the item relating to section 1744 in the table of sections by striking ''Patent Office'' and inserting ''United States Patent and Trademark Office'';

(B) in section 1744—

(i) by striking ''Patent Office'' each place it appears in the text and section heading and inserting ''United States Patent and Trademark Office''; and

(ii) by striking ''Commissioner of Patents'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''; and

(C) by striking ''Commissioner'' and inserting ''Director''.

(16) Section 1745 of title 28, United States Code, is amended by striking ''United States Patent Office'' and inserting ''United States Patent and Trademark Office''.

(17) Section 1928 of title 28, United States Code, is amended by striking ''Patent Office'' and inserting ''United States Patent and Trademark Office''.

(18) Section 151 of the Atomic Energy Act of 1954 (42 U.S.C. 2181) is amended in subsections c. and d. by striking ''Commissioner of Patents'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''.

(19) Section 152 of the Atomic Energy Act of 1954 (42 U.S.C. 2182) is amended by striking ''Commissioner of Patents'' each place it appears and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''.

(20) Section 305 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2457) is amended—

(A) in subsection (c) by striking ''Commissioner of Patents'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (hereafter in this section referred to as the 'Director')''; and

(B) by striking ''Commissioner'' each subsequent place it appears and inserting ''Director''.

(21) Section 12(a) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5510(a)) is amended by striking ''Commissioner of the Patent Office'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''.

(22) Section 1111 of title 44, United States Code, is amended by striking ''the Commissioner of Patents,''.

(23) Section 1114 of title 44, United States Code, is amended by striking ''the Commissioner of Patents,''.

(24) Section 1123 of title 44, United States Code, is amended by striking ''the Patent Office,''.

(25) Sections 1337 and 1338 of title 44, United States Code, and the items relating to those sections in the table of contents for chapter 13 of such title, are repealed.

(26) Section 10(i) of the Trading with the enemy Act (50 U.S.C. App. 10(i)) is amended by striking ''Commissioner of Patents'' and inserting ''Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office''.

CHAPTER 3—MISCELLANEOUS PROVISIONS

SEC. 4741. REFERENCES.

(a) IN GENERAL.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a department or office from which a function is transferred by this subtitle—

(1) to the head of such department or office is deemed to refer to the head of the department or office to which such function is transferred; or

(2) to such department or office is deemed to refer to the department or office to which such function is transferred.

(b) SPECIFIC REFERENCES.—Any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Patent and Trademark Office—

(1) to the Commissioner of Patents and Trademarks is deemed to refer to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office;

(2) to the Assistant Commissioner for Patents is deemed to refer to the Commissioner for Patents; or

(3) to the Assistant Commissioner for Trademarks is deemed to refer to the Commissioner for Trademarks.

SEC. 4742. EXERCISE OF AUTHORITIES.

Except as otherwise provided by law, a Federal official to whom a function is transferred by this subtitle may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function under this subtitle.

SEC. 4743. SAVINGS PROVISIONS.

(a) LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by the President, the Secretary of Commerce, any officer or employee of any office transferred by this subtitle, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this subtitle; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date), shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, any other authorized official, a court of competent jurisdiction, or operation of law.

(b) PROCEEDINGS.—This subtitle shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending on the effective date of this subtitle before an office transferred by this subtitle, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this subtitle had not been enacted, and orders issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be considered to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this subtitle had not been enacted.

(c) SUITS.—This subtitle shall not affect suits commenced before the effective date of this subtitle, and in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this subtitle had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Department of Commerce or the Secretary of Commerce, or by or against any individual in the official capacity of such individual as an officer or employee of an office transferred by this subtitle, shall abate by reason of the enactment of this subtitle.

(e) CONTINUANCE OF SUITS.—If any Government officer in the official capacity of such officer is party to a suit with respect to a function of the officer, and under this subtitle such function is transferred to any other officer or office, then such suit shall be continued with the other officer or the head of such other office, as applicable, substituted or added as a party.

(f) ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.—Except as otherwise provided by this subtitle, any statutory requirements relating to notice, hearings, action upon the record, or administrative or judicial review that apply to any function transferred by this subtitle shall apply to the exercise of such function by the head of the Federal agency, and other officers of the agency, to which such function is transferred by this subtitle.

SEC. 4744. TRANSFER OF ASSETS.

Except as otherwise provided in this subtitle, so much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with a function transferred to an official or agency by this subtitle shall be available to the official or the head of that agency, respectively, at such time or times as the Director of the Office of Management and Budget directs for use in connection with the functions transferred.

SEC. 4745. DELEGATION AND ASSIGNMENT.

Except as otherwise expressly prohibited by law or otherwise provided in this subtitle, an official to whom functions are transferred under this subtitle (including the head of any office to which functions are transferred under this subtitle) may delegate any of the functions so transferred to such officers and employees of the office of the official as the official may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions under this section or under any other provision of this subtitle shall relieve the official to whom a function is transferred under this subtitle of responsibility for the administration of the function.

SEC. 4746. AUTHORITY OF DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET WITH RESPECT TO FUNCTIONS TRANSFERRED.

(a) DETERMINATIONS.—If necessary, the Director of the Office of Management and Budget shall make any determination of the functions that are transferred under this subtitle.

(b) INCIDENTAL TRANSFERS.—The Director of the Office of Management and Budget, at such time or times as the Director shall provide, may make such determinations as may be necessary with regard to the functions transferred by this subtitle, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this subtitle. The Director shall provide for the termination of the affairs of all entities terminated by this subtitle and for such further measures and dispositions as may be necessary to effectuate the purposes of this subtitle.

SEC. 4747. CERTAIN VESTING OF FUNCTIONS CONSIDERED TRANSFERS.

For purposes of this subtitle, the vesting of a function in a department or office pursuant to reestablishment of an office shall be considered to be the transfer of the function.

SEC. 4748. AVAILABILITY OF EXISTING FUNDS.

Existing appropriations and funds available for the performance of functions, programs, and activities terminated pursuant to this subtitle shall remain available, for the duration of their period of availability, for necessary expenses in connection with the termination and resolution of such functions, programs, and activities, subject to the submission of a plan to the Committees on Appropriations of the House and Senate in accordance with the procedures set forth in section 605 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1999, as contained in Public Law 105–277.

SEC. 4749. DEFINITIONS.

For purposes of this subtitle—

(1) the term ''function'' includes any duty, obligation, power, authority, responsibility, right, privilege, activity, or program; and

(2) the term ''office'' includes any office, administration, agency, bureau, institute, council, unit, organizational entity, or component thereof.

Subtitle H—Miscellaneous Patent Provisions

SEC. 4801. PROVISIONAL APPLICATIONS.

(a) ABANDONMENT.—Section 111(b)(5) of title 35, United States Code, is amended to read as follows:

''(5) ABANDONMENT.—Notwithstanding the absence of a claim, upon timely request and as prescribed by the Director, a provisional application may be treated as an application filed under subsection (a). Subject to section 119(e)(3) of this title, if no such request is made, the provisional application shall be regarded as abandoned 12 months after the filing date of such application and shall not be subject to revival after such 12-month period.''.

(b) TECHNICAL AMENDMENT RELATING TO WEEKENDS AND HOLIDAYS.—Section 119(e) of title 35, United States Code, is amended by adding at the end the following:

''(3) If the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the period of pendency of the provisional application shall be extended to the next succeeding secular or business day.''.

(c) ELIMINATION OF COPENDENCY REQUIREMENT.—Section 119(e)(2) of title 35, United States Code, is amended by striking ''and the provisional application was pending on the filing date of the application for patent under section 111(a) or section 363 of this title''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to any provisional application filed on or after June 8, 1995, except that the amendments made by subsections (b) and (c) shall have no effect with respect to any patent which is the subject of litigation in an action commenced before such date of enactment.

SEC. 4802. INTERNATIONAL APPLICATIONS.

Section 119 of title 35, United States Code, is amended as follows:

(1) In subsection (a), insert ''or in a WTO member country,'' after ''or citizens of the United States,''.

(2) At the end of section 119 add the following new subsections:

''(f) Applications for plant breeder's rights filed in a WTO member country (or in a foreign UPOV Contracting Party) shall have the same effect for the purpose of the right of priority under subsections (a) through (c) of this section as applications for patents, subject to the same conditions and requirements of this section as apply to applications for patents.

''(g) As used in this section—

''(1) the term 'WTO member country' has the same meaning as the term is defined in section 104(b)(2) of this title; and

''(2) the term 'UPOV Contracting Party' means a member of the International Convention for the Protection of New Varieties of Plants.''.

SEC. 4803. CERTAIN LIMITATIONS ON DAMAGES FOR PATENT INFRINGEMENT NOT APPLICABLE.

Section 287(c)(4) of title 35, United States Code, is amended by striking ''before the date of enactment of this subsection'' and inserting ''based on an application the earliest effective filing date of which is prior to September 30, 1996''.

SEC. 4804. ELECTRONIC FILING AND PUBLICATIONS.

(a) PRINTING OF PAPERS FILED.—Section 22 of title 35, United States Code, is amended by striking ''printed or typewritten'' and inserting ''printed, typewritten, or on an electronic medium''.

(b) PUBLICATIONS.—Section 11(a) of title 35, United States Code, is amended by amending the matter preceding paragraph 1 to read as follows:

''(a) The Director may publish in printed, typewritten, or electronic form, the following:''.

(c) COPIES OF PATENTS FOR PUBLIC LIBRARIES.—Section 13 of title 35, United States Code,

is amended by striking ''printed copies of specifications and drawings of patents'' and inserting ''copies of specifications and drawings of patents in printed or electronic form''.

(d) MAINTENANCE OF COLLECTIONS.—

(1) ELECTRONIC COLLECTIONS.—Section 41(i)(1) of title 35, United States Code, is amended by striking ''paper or microform'' and inserting ''paper, microform, or electronic''.

(2) CONTINUATION OF MAINTENANCE.—The Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office shall not, pursuant to the amendment made by paragraph (1), cease to maintain, for use by the public, paper or microform collections of United States patents, foreign patent documents, and United States trademark registrations, except pursuant to notice and opportunity for public comment and except that the Director shall first submit a report to the Committees on the Judiciary of the Senate and the House of Representatives detailing 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.

SEC. 4805. STUDY AND REPORT ON BIOLOGICAL DEPOSITS IN SUPPORT OF BIOTECHNOLOGY PATENTS.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, shall conduct a study and submit a report to Congress on the potential risks to the United States biotechnology industry relating to biological deposits in support of biotechnology patents.

(b) CONTENTS.—The study conducted under this section shall include—

(1) an examination of the risk of export and the risk of transfers to third parties of biological deposits, and the risks posed by the change to 18-month publication requirements made by this subtitle;

(2) an analysis of comparative legal and regulatory regimes; and

(3) any related recommendations.

(c) CONSIDERATION OF REPORT.—In drafting regulations affecting biological deposits (including any modification of title 37, Code of Federal Regulations, section 1.801 et seq.), the United States Patent and Trademark Office shall consider the recommendations of the study conducted under this section.

SEC. 4806. PRIOR INVENTION.

Section 102(g) of title 35, United States Code, is amended to read as follows:

''(g)(1) during the course of an interference conducted under section 135 or section 291, another inventor involved therein establishes, to the extent permitted in section 104, that before such person's invention thereof the invention was made by such other inventor and not abandoned, suppressed, or concealed, or (2) before such person's invention thereof, the invention was made in this country by another inventor who had not abandoned, suppressed, or concealed it. In determining priority of invention under this subsection, there shall be considered not only the respective dates of conception and reduction to practice of the invention, but also the reasonable diligence of one who was first to conceive and last to reduce to practice, from a time prior to conception by the other.''.

SEC. 4807. PRIOR ART EXCLUSION FOR CERTAIN COMMONLY ASSIGNED PATENTS.

(a) PRIOR ART EXCLUSION.—Section 103(c) of title 35, United States Code, is amended by striking ''subsection (f) or (g)'' and inserting ''one or more of subsections (e), (f), and (g)''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any application for patent filed on or after the date of enactment of this Act.

SEC. 4808. EXCHANGE OF COPIES OF PATENTS WITH FOREIGN COUNTRIES.

Section 12 of title 35, United States Code, is amended by adding at the end the following: ''The Director shall not enter into an agreement to provide such copies of specifications and drawings of United States patents and applications to a foreign country, other than a NAFTA country or a WTO member country, without the express authorization of the Secretary of Commerce. For purposes of this section, the terms 'NAFTA country' and 'WTO member country' have the meanings given those terms in section 104(b).''.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 5001. COMMISSION ON ONLINE CHILD PROTECTION.

(a) REFERENCES.—Wherever in this section an amendment is expressed in terms of an amendment to any provision, the reference shall be considered to be made to such provision of section 1405 of the Child Online Protection Act (47 U.S.C. 231 note).

(b) MEMBERSHIP.—Subsection (b) is amended—

(1) by striking paragraph (1) and inserting the following new paragraph:

''(1) INDUSTRY MEMBERS.—The Commission shall include 16 members who shall consist of representatives of—

''(A) providers of Internet filtering or blocking services or software;

''(B) Internet access services;

''(C) labeling or ratings services;

''(D) Internet portal or search services;

''(E) domain name registration services;

''(F) academic experts; and

''(G) providers that make content available over the Internet.

Of the members of the Commission by reason of this paragraph, an equal number shall be appointed by the Speaker of the House of Representatives and by the Majority Leader of the Senate. Members of the Commission appointed on or before October 31, 1999, shall remain members.''; and

(2) by adding at the end the following new paragraph:

''(3) PROHIBITION OF PAY.—Members of the Commission shall not receive any pay by reason of their membership on the Commission.''.

(c) EXTENSION OF REPORTING DEADLINE.—The matter in subsection (d) that precedes paragraph (1) is amended by striking ''1 year'' and inserting ''2 years''.

(d) TERMINATION.—Subsection (f) is amended by inserting before the period at the end the following: ''or November 30, 2000, whichever occurs earlier''.

(e) FIRST MEETING AND CHAIRPERSON.—Section 1405 is amended—

(1) by striking subsection (e);

(2) by redesignating subsections (f) (as amended by the preceding provisions of this section) and (g) as subsections (l) and (m), respectively;

(3) by redesignating subsections (c) and (d) (as amended by the preceding provisions of this section) as subsections (e) and (f), respectively; and

(4) by inserting after subsection (b) the following new subsections:

''(c) FIRST MEETING.—The Commission shall hold its first meeting not later than March 31, 2000.

''(d) CHAIRPERSON.—The chairperson of the Commission shall be elected by a vote of a majority of the members, which shall take place not later than 30 days after the first meeting of the Commission.''.

(f) RULES OF THE COMMISSION.—Section 1405 is amended by inserting after subsection (f) (as so redesignated by subsection (e)(3) of this section) the following new subsection:

''(g) RULES OF THE COMMISSION.—

''(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

''(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

''(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public to testify.

''(4) ADDITIONAL RULES.—The Commission may adopt other rules as necessary to carry out this section.''.

SEC. 5002. PRIVACY PROTECTION FOR DONORS TO PUBLIC BROADCASTING ENTITIES.

(a) AMENDMENT.—Section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended by adding at the end the following new paragraph:

''(12) Funds may not be distributed under this subsection to any public broadcasting entity that directly or indirectly—

''(A) rents contributor or donor names (or other personally identifiable information) to or from, or exchanges such names or information with, any Federal, State, or local candidate, political party, or political committee; or

''(B) discloses contributor or donor names, or other personally identifiable information, to any nonaffiliated third party unless—

''(i) such entity clearly and conspicuously discloses to the contributor or donor that such information may be disclosed to such third party;

''(ii) the contributor or donor is given the opportunity, before the time that such information is initially disclosed, to direct that such information not be disclosed to such third party; and

''(iii) the contributor or donor is given an explanation of how the contributor or donor may exercise that nondisclosure option.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to funds distributed on or after 6 months after the date of enactment of this Act. 33

SEC. 5003. COMPLETION OF BIENNIAL REGULATORY REVIEW.

Within 180 days after the date of enactment of this Act, the Federal Communications Commission shall complete the first biennial review required by section 202(h) of the Telecommunications Act of 1996 (Public Law 104–104; 110 Stat. 111).

SEC. 5004. PUBLIC BROADCASTING ENTITIES.

(a) CIVIL REMITTANCE OF DAMAGES.—Section 1203(c)(5)(B) of title 17, United States Code, is amended to read as follows:

''(B) NONPROFIT LIBRARY, ARCHIVES, EDUCATIONAL INSTITUTIONS, OR PUBLIC BROADCASTING ENTITIES.—

''(i) DEFINITION.—In this subparagraph, the term 'public broadcasting entity' has the meaning given such term under section 118(g).

''(ii) IN GENERAL.—In the case of a nonprofit library, archives, educational institution, or public broadcasting entity, the court shall remit damages in any case in which the library, archives, educational institution, or public broadcasting entity sustains the burden of proving, and the court finds, that the library, archives, educational institution, or public broadcasting entity was not aware and had no reason to believe that its acts constituted a violation.''.

(b) CRIMINAL OFFENSES AND PENALTIES.—Section 1204(b) of title 17, United States Code, is amended to read as follows:

''(b) LIMITATION FOR NONPROFIT LIBRARY, ARCHIVES, EDUCATIONAL INSTITUTION, OR PUBLIC BROADCASTING ENTITY.—Subsection (a) shall not apply to a nonprofit library, archives, educational institution, or public broadcasting entity (as defined under section 118(g).''.

SEC. 5005. TECHNICAL AMENDMENTS RELATING TO VESSEL HULL DESIGN PROTECTION.

(a) IN GENERAL.—

(1) Section 504(a) of the Digital Millennium Copyright Act (Public Law 105–304) is amended to read as follows:

''(a) IN GENERAL.—Not later than November 1, 2003, the Register of Copyrights and the Commissioner of Patents and Trademarks shall submit to the Committees on the Judiciary of the

Senate and the House of Representatives a joint report evaluating the effect of the amendments made by this title.''.

(2) Section 505 of the Digital Millennium Copyright Act is amended by striking ''and shall remain in effect'' and all that follows through the end of the section and inserting a period.

(3) Section 1301(b)(3) of title 17, United States Code, is amended to read as follows:

''(3) A 'vessel' is a craft—

''(A) that is designed and capable of independently steering a course on or through water through its own means of propulsion; and

''(B) that is designed and capable of carrying and transporting one or more passengers.''.

(4) Section 1313(c) of title 17, United States Code, is amended by adding at the end the following: ''Costs of the cancellation procedure under this subsection shall be borne by the nonprevailing party or parties, and the Administrator shall have the authority to assess and collect such costs.''. 33

(b) TARIFF ACT OF 1930.—Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking ''and (D)'' and inserting ''(D), and (E)''; and

(ii) by adding at the end the following:

''(E) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consigner, of an article that constitutes infringement of the exclusive rights in a design protected under chapter 13 of title 17, United States Code.''; and

(B) in paragraphs (2) and (3), by striking ''or mask work'' and inserting ''mask work, or design''; and

(2) in subsection (l), by striking ''or mask work'' each place it appears and inserting ''mask work, or design''.

SEC. 5006. INFORMAL RULEMAKING OF COPYRIGHT DETERMINATION.

Section 1201(a)(1)(C) of title 17, United States Code, is amended in the first sentence by striking ''on the record''.

SEC. 5007. SERVICE OF PROCESS FOR SURETY CORPORATIONS.

Section 9306 of title 31, United States Code, is amended—

(1) in subsection (a) by striking all beginning with ''designates a person by written power of attorney'' through the end of such subsection and inserting the following: ''has a resident agent for service of process for that district. The resident agent—

''(1) may be an official of the State, the District of Columbia, the territory or possession in which the court sits who is authorized or appointed under the law of the State, District, territory or possession to receive service of process on the corporation; or

''(2) may be an individual who resides in the jurisdiction of the district court for the district in which a surety bond is to be provided and who is appointed by the corporation as provided in subsection (b)''; and

(2) in subsection (b) by striking ''The'' and inserting ''If the surety corporation meets the requirement of subsection (a) by appointing an individual under subsection (a)(2), the''.

SEC. 5008. LOW-POWER TELEVISION.

(a) SHORT TITLE.—This section may be cited as the ''Community Broadcasters Protection Act of 1999''.

(b) FINDINGS.—Congress finds the following:

(1) Since the creation of low-power television licenses by the Federal Communications Commission, a small number of license holders have operated their stations in a manner beneficial to the public good providing broadcasting to their communities that would not otherwise be available.

(2) These low-power broadcasters have operated their stations in a manner consistent with the programming objectives and hours of operation of full-power broadcasters providing worthwhile services to their respective communities while under severe license limitations compared to their full-power counterparts.

(3) License limitations, particularly the temporary nature of the license, have blocked many low-power broadcasters from having access to capital, and have severely hampered their ability to continue to provide quality broadcasting, programming, or improvements.

(4) The passage of the Telecommunications Act of 1996 has added to the uncertainty of the future status of these stations by the lack of specific provisions regarding the permanency of their licenses, or their treatment during the transition to high definition, digital television.

(5) It is in the public interest to promote diversity in television programming such as that currently provided by low-power television stations to foreign-language communities.

(c) PRESERVATION OF LOW-POWER COMMUNITY TELEVISION BROADCASTING.—Section 336 of the Communications Act of 1934 (47 U.S.C. 336) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection:

''(f) PRESERVATION OF LOW-POWER COMMUNITY TELEVISION BROADCASTING.—

''(1) CREATION OF CLASS A LICENSES.—

''(A) RULEMAKING REQUIRED.—Within 120 days after the date of enactment of the Community Broadcasters Protection Act of 1999, the Commission shall prescribe regulations to establish a class A television license to be available to licensees of qualifying low-power television stations. Such regulations shall provide that—

''(i) the license shall be subject to the same license terms and renewal standards as the licenses for full-power television stations except as provided in this subsection; and

''(ii) each such class A licensee shall be accorded primary status as a television broadcaster as long as the station continues to meet the requirements for a qualifying low-power station in paragraph (2).

''(B) NOTICE TO AND CERTIFICATION BY LICENSEES.—Within 30 days after the date of enactment of the Community Broadcasters Protection Act of 1999, the Commission shall send a notice to the licensees of all low-power televisions licenses that describes the requirements for class A designation. Within 60 days after such date of enactment, licensees intending to seek class A designation shall submit to the Commission a certification of eligibility based on the qualification requirements of this subsection. Absent a material deficiency, the Commission shall grant certification of eligibility to apply for class A status.

''(C) APPLICATION FOR AND AWARD OF LICENSES.—Consistent with the requirements set forth in paragraph (2)(A) of this subsection, a licensee may submit an application for class A designation under this paragraph within 30 days after final regulations are adopted under subparagraph (A) of this paragraph. Except as provided in paragraphs (6) and (7), the Commission shall, within 30 days after receipt of an application of a licensee of a qualifying low-power television station that is acceptable for filing, award such a class A television station license to such licensee.

''(D) RESOLUTION OF TECHNICAL PROBLEMS.—The Commission shall act to preserve the service areas of low-power television licensees pending the final resolution of a class A application. If, after granting certification of eligibility for a class A license, technical problems arise requiring an engineering solution to a full-power station's allotted parameters or channel assignment in the digital television Table of Allotments, the Commission shall make such modifications as necessary—

''(i) to ensure replication of the full-power digital television applicant's service area, as provided for in sections 73.622 and 73.623 of the Commission's regulations (47 C.F.R. 73.622, 73.623); and

''(ii) to permit maximization of a full power digital television applicant's service area consistent with such sections 73.622 and 73.623;

if such applicant has filed an application for maximization or a notice of its intent to seek such maximization by December 31, 1999, and filed a bona fide application for maximization by May 1, 2000. Any such applicant shall comply with all applicable Commission rules regarding the construction of digital television facilities.

(E) CHANGE APPLICATIONS.—If a station that is awarded a construction permit to maximize or significantly enhance its digital television service area, later files a change application to reduce its digital television service area, the protected contour of that station shall be reduced in accordance with such change modification.

''(2) QUALIFYING LOW-POWER TELEVISION STATIONS.—For purposes of this subsection, a station is a qualifying low-power television station if—

''(A)(i) during the 90 days preceding the date of enactment of the Community Broadcasters Protection Act of 1999—

''(I) such station broadcast a minimum of 18 hours per day;

''(II) such station broadcast an average of at least 3 hours per week of programming that was produced within the market area served by such station, or the market area served by a group of commonly controlled low-power stations that carry common local programming produced within the market area served by such group; and

''(III) such station was in compliance with the Commission's requirements applicable to low-power television stations; and

''(ii) from and after the date of its application for a class A license, the station is in compliance with the Commission's operating rules for full-power television stations; or

''(B) the Commission determines that the public interest, convenience, and necessity would be served by treating the station as a qualifying low-power television station for purposes of this section, or for other reasons determined by the Commission.

''(3) COMMON OWNERSHIP.—No low-power television station authorized as of the date of enactment of the Community Broadcasters Protection Act of 1999 shall be disqualified for a class A license based on common ownership with any other medium of mass communication.

''(4) ISSUANCE OF LICENSES FOR ADVANCED TELEVISION SERVICES TO TELEVISION TRANSLATOR STATIONS AND QUALIFYING LOW-POWER TELEVISION STATIONS.—The Commission is not required to issue any additional license for advanced television services to the licensee of a class A television station under this subsection, or to any licensee of any television translator station, but shall accept a license application for such services proposing facilities that will not cause interference to the service area of any other broadcast facility applied for, protected, permitted, or authorized on the date of filing of the advanced television application. Such new license or the original license of the applicant shall be forfeited after the end of the digital television service transition period, as determined by the Commission. A licensee of a low-power television station or television translator station may, at the option of licensee, elect to convert to the provision of advanced television services on its analog channel, but shall not be required to convert to digital operation until the end of such transition period.

''(5) NO PREEMPTION OF SECTION 337.—Nothing in this subsection preempts or otherwise affects section 337 of this Act.

''(6) INTERIM QUALIFICATION.—

''(A) STATIONS OPERATING WITHIN CERTAIN BANDWIDTH.—The Commission may not grant a class A license to a low-power television station for operation between 698 and 806 megahertz,

but the Commission shall provide to low-power television stations assigned to and temporarily operating in that bandwidth the opportunity to meet the qualification requirements for a class A license. If such a qualified applicant for a class A license is assigned a channel within the core spectrum (as such term is defined in MM Docket 87–286, February 17, 1998), the Commission shall issue a class A license simultaneously with the assignment of such channel.

''(B) CERTAIN CHANNELS OFF-LIMITS.—The Commission may not grant under this subsection a class A license to a low-power television station operating on a channel within the core spectrum that includes any of the 175 additional channels referenced in paragraph 45 of its February 23, 1998, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order (MM Docket No. 87–268). Within 18 months after the date of enactment of the Community Broadcasters Protection Act of 1999, the Commission shall identify by channel, location, and applicable technical parameters those 175 channels.

''(7) NO INTERFERENCE REQUIREMENT.—The Commission may not grant a class A license, nor approve a modification of a class A license, unless the applicant or licensee shows that the class A station for which the license or modification is sought will not cause—

''(A) interference within—

''(i) the predicted Grade B contour (as of the date of enactment of the Community Broadcasters Protection Act of 1999, or November 1, 1999, whichever is later, or as proposed in a change application filed on or before such date) of any television station transmitting in analog format; or

''(ii)(I) the digital television service areas provided in the DTV Table of Allotments; (II) the areas protected in the Commission's digital television regulations (47 C.F.R. 73.622(e) and (f)); (III) the digital television service areas of stations subsequently granted by the Commission prior to the filing of a class A application; and (IV) stations seeking to maximize power under the Commission's rules, if such station has complied with the notification requirements in paragraph (1)(D);

''(B) interference within the protected contour of any low-power television station or low-power television translator station that—

''(i) was licensed prior to the date on which the application for a class A license, or for the modification of such a license, was filed;

''(ii) was authorized by construction permit prior to such date; or

''(iii) had a pending application that was submitted prior to such date;

''(C) interference within the protected contour of 80 miles from the geographic center of the areas listed in section 22.625(b)(1) or 90.303 of the Commission's regulations (47 C.F.R. 22.625(b)(1) and 90.303) for frequencies in—

''(i) the 470–512 megahertz band identified in section 22.621 or 90.303 of such regulations; or

''(ii) the 482–488 megahertz band in New York.

''(8) PRIORITY FOR DISPLACED LOW-POWER STATIONS.—Low-power stations that are displaced by an application filed under this section shall have priority over other low-power stations in the assignment of available channels.''.

And the Senate agree to the same.

From the Committee on Commerce, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

TOM BLILEY,
BILLY TAUZIN,
MICHAEL G. OXLEY,
JOHN D. DINGELL,
EDWARD J. MARKEY,

Provided that Mr. BOUCHER is appointed in lieu of Mr. MARKEY for consideration of secs. 712(b)(1), 712(b)(2), and 712(c)(1) of the Communications Act of 1934 as added by sec. 104 of the House bill.

RICK BOUCHER,

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference:

HENRY HYDE,
HOWARD COBLE,
BOB GOODLATTE,
JOHN CONYERS,
HOWARD L. BERMAN,

Managers on the Part of the House.

From the Committee on the Judiciary:

ORRIN HATCH,
STROM THURMOND,
MIKE DEWINE,
PATRICK LEAHY,
HERB KOHL,

From the Committee on Commerce, Science, and Transportation:

TED STEVENS,
FRITZ HOLLINGS,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1554), 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, 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 out 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 which 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 clarifying changes.

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 105(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 1005(e) of this Act adds a new proviso to the definition of ''satellite carrier'' to exclude from that definition the provision of any ''digital online communications service.'' As the Copyright Office concluded in its 1997 Review of the Copyright Licensing Regimes Covering Retransmission of Broadcast Signals, no existing statutory license (whether in section 111, section 119, or otherwise) authorizes retransmission of television broadcast signals via the Internet or any other online service. The extension of any statutory license for television programming to online transmissions would raise profound policy considerations, including, most notably, the apparent impossibility of limiting such transmissions to ''unserved households.'' In any event, the committee's intent is that, neither section 111, section 119, nor section 122 creates any authorization for third parties to disseminate television programming via online delivery of any kind, and the amendment to the definition of ''satellite carrier'' simply confirms existing law on that point.

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

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[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).

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 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. Section 1011(e) 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

The Conference Committee agrees that it is very important that rural Americans receive the benefits of this Act along with urban residents. There are concerns that without this title, many rural Americans would not receive local broadcast signals.

Conferees were advised that major satellite carriers intended to provide local broadcast TV stations via satellite only in the largest markets rather than in more rural areas. These satellite providers have stated that is it not economically feasible to provide such service in rural areas at the present time. Many rural areas of the United States are not served by broadcast television or cable service.

Title II of this Act authorizes the Department of Agriculture, in consultation with OMB, the Secretary of Treasury, and the FCC, and with the certification of the National Telecommunications and Information Administration, to guarantee loans not exceeding $1.25 billion for providing local broadcast TV signals in rural areas. In addition, providers can offer other services, such as data service, should excess capacity permit. No single loan can exceed $625 million to any one provider and the rest of the loans may not exceed $100 million face value.

No loan shall be guaranteed unless: 1) approved in advance by an appropriations Act; 2) USDA consults with OMB, NTIA, and with a public accounting firm; 3) USDA has security that is ''adequate'' to protect the government's interests; 4) USDA can reasonably expect repayment ''using an appropriate combination of credit risk premiums and collateral offered by the applicant to protect the Federal Government;'' and, 5) the borrower has ''insurance sufficient to protect the interests of the Federal Government.''

The provisions are technology neutral in that the borrower can use any delivery mechanism to provide local TV that otherwise meets the requirements of this title.

The language of Title II is similar to the Railroad Rehabilitation and Improvement Financing Act which provided up to $3.5 billion in federal loan guarantees to help shortline railroads serve rural America. The underwriting criteria for the USDA loan guarantee—such as cash flow levels and appropriate collateral—will be developed in consultation with OMB and a public accounting firm and are modeled after the Railroad Act language.

Section 2001. Short title

This title may be referred to as the ''Rural Local Broadcast Signal Act.''

Section 2002. Loan guarantees

Subject to appropriations Acts, the Secretary of Agriculture is authorized to establish a program of loan guarantees to fund projects which finance the acquisition, improvement, enhancement, deployment, launch, or rehabilitation of the means by which local television broadcast signals will be delivered to areas not receiving such signals over commercial for-profit direct-to-home satellite distribution systems.

No single guaranteed loan can exceed $625 million to any one provider of local TV stations and none of the remaining loans may exceed $100 million in face value. Strict requirements for insurance, collateral, assurances of repayments to the Secretary, perfected interests of the Secretary, liens on assets, and strong security provisions are set forth in the law. All of these provisions are designed to protect the interests of the taxpayers.

In developing underwriting standards relating to the issuance of loan guarantees, appropriate collateral and cash flow levels, the Secretary is required to consult with OMB and with a public accounting firm. In addition, the Secretary may accept on behalf of an applicant a commitment from a non-Federal source to fund in whole or in part the credit risk premiums with respect to the loan.

Section 2003. Administration of loan guarantees

In deciding which loan guarantees to approve, the Secretary, to the maximum extent practicable shall give priority to projects which serve the most unserved and underserved rural markets, taking into account such factors as feasibility, population, terrain, prevailing market conditions, and projected costs to consumers. These applicants for priority projects shall agree to performance schedules which if missed make the borrower potentially subject to stiff penalties. Detailed subrogation, disposition of property, default, breach of agreement, attachment, and audit provisions are designed to protect the interests of the taxpayers.

The Secretary may require an affiliate of the borrower to indemnify the Government for any losses it incurs as a result of a judgment against the borrower, and breach of the borrower's obligations, or any violation of the provisions of the Act.

The sunset clause provides that the Secretary may not approve a loan guarantee under this title after December 31, 2006.

Section 2004. Retransmission of local television broadcast stations

Borrowers shall have the same copyright authority and other rights to transmit the signals of local television broadcast stations as provided in this title and shall carry the signals of local stations without charge.

Section 2005. 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.

Section 2006. Definitions

Section 2006 defines terms used in the title such as ''loan guarantees,'' ''discount rate,'' ''loan guarantee,'' ''modification,'' and ''borrower.''

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 exists. 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,

[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).

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 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 or 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 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 and 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 U.S., 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-

[6] 615 U.S.C. §1051, *et seq.*

[7] 149 F.3d 1368 (Fed. Cir. 1998) [hereinafter *State Street*].

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

[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).

(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 that 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

[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.

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

[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.

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

[18] See 28 U.S.C. § 1338.

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

[19] 19 U.S.C. §2171.
[20] 28 U.S.C. §5382.
[21] 5 U.S.C. §5304(h)(2)(C).

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

[22] 5 U.S.C. §5314.

[23] 5 U.S.C. §5315.

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

[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.

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 title 17 relating to 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 chapter of title 17. 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 to 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 5009, 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 5009 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

[28] LPTV stations are distinct from so called ''translators.'' Whereas LPTV stations typically offer orginal programming, translators merely amplify or ''boost'' a full-service television station's signal into rural and mountainous regions adjacent to the station's market.

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 5009, the Community Broadcasters Protection Act of 1999, will achieve that objective, and at the same time, protect the transition to digital.

Section 5009(a) provides that the short title of this section is the ''Community Broadcasters Protection Act of 1999.''

Section 5009(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 5009(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.

From the Committee on Commerce, for consideration of the House bill and the Senate amendment, and modifications committee to conference:

TOM BLILEY,
BILLY TAUZIN,
MICHAEL G. OXLEY,
JOHN D. DINGELL,
EDWARD J. MARKEY,

Provided that Mr. BOUCHER is appointed in lieu of Mr. MARKEY for consideration of secs. 712(b)(1), 712(b)(2), and 712(c)(1) of the Communications Act of 1934 as added by sec. 104 of the House bill.

RICK BOUCHER,

[29] See 47 U.S.C. §337.
[30] 47 U.S.C. §336.
[31] 47 U.S.C. §337.

From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committee to conference:

HENRY HYDE,
HOWARD COBLE,
BOB GOODLATTE,
JOHN CONYERS,
HOWARD L. BERMAN,
Managers on the Part of the House.

From the Committee on the Judiciary:

ORRIN HATCH,
STROM THURMOND,
MIKE DEWINE,
PATRICK LEAHY,
HERB KOHL,

From the Committee on Commerce, Science, and Transportation:

TED STEVENS,
FRITZ HOLLINGS,
Managers on the Part of the Senate.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Sherman Williams, one of his secretaries.

CONFERENCE REPORT ON H.R. 1554, INTELLECTUAL PROPERTY AND COMMUNICATIONS OMNIBUS REFORM ACT OF 1999

Mr. ARMEY. Mr. Speaker, I move to suspend the rules and agree to the conference report on the bill (H.R. 1554) 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.

The Clerk read the title of the bill.

(For conference report and statement, see prior proceedings of the House of today.)

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the gentleman from North Carolina (Mr. COBLE) and the gentleman from Louisiana (Mr. TAUZIN) each control 10 minutes of debate on this motion. I further ask unanimous consent that the gentleman from Michigan (Mr. CONYERS) and the gentleman from Massachusetts (Mr. MARKEY) each control 10 minutes on this motion.

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

There was no objection.

GENERAL LEAVE

Mr. ARMEY. 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 the conference report on H.R. 1554.

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

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Louisiana (Mr. TAUZIN).

□ 1815

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

Mr. Speaker, this conference report represents the combined hard work of both the House and the Senate, which is, of course, long overdue. I am pleased to report that through this hard work we are able to present the House an agreement on changes to telecommunications and copyright law in order to provide the American consumer with a stronger, more viable competitor to their incumbent cable operator.

This legislation will enact comprehensive reforms to the offering of satellite television service. I expect that the reforms contained in this bill will have a dramatic and beneficial effect on the multichannel video programming marketplace for years to come.

Consumers today expect more from their video program providers, whether it is a cable company, a satellite company, their broadcaster or other distributors, including the Internet. Consumers are savvy and they now expect and indeed demand their video program distributor to offer a wide variety of programming at reasonable cost with exceptional picture quality.

Today, there are some limitations on the ability of satellite carriers to meet consumer demands. These limitations put satellite carriers at a competitive disadvantage to incumbent cable providers. The main limitation on satellite providers is the inherent difficulty in providing local broadcast programming via satellite. Even though broadcasters are experiencing a dramatic reduction in their overall viewing audience compared to a few years ago, the overwhelming number of consumers still want local broadcast programming. Consumer surveys conclude that the lack of local broadcast programming is the number one reason some consumers are unwilling to subscribe to satellite service.

This conference report we are placing before the House today is designed to put satellite on a competitive, equal footing with cable. The bill provides for a compulsory license to retransmit local broadcast programming, and ensures carriage for local broadcast stations through retransmission consent/must-carry elections. The bill also provides consumers with the enjoyment of the benefit of distant signals.

This bill is not what all the industry desires. I want to make that clear. Parts of our industry do not like the bill. But the bottom line is it is good for consumers, and that is what really matters. For C-band users in my district and across America who have been calling, this bill grandfathers them. They are now legally eligible under this bill to receive signals they wrote and called about.

Let me tell my colleagues some of the other good consumer things it does. It directs the FCC to develop a new program signal standard; that is, defines a better picture quality instead of the 1950 quality we were used to looking at and that currently exists. It gives it a year to do so and to come back to Congress with this new picture quality standard.

It requires broadcasters to respond within 30 days to requests for waivers to receive distant signals, if they cannot get a good local signal.

It makes it easier for consumers to either get the waiver or to take an eligibility test for the distant signal. And, by the way, it ensures that the consumer will not be required to pay for this testing.

It directs the FCC to assist consumers in reviewing those eligibility disputes.

It makes a national PBS satellite feed available nationwide to all satellite consumers and at a reduced copyright rate.

It eliminates the 90-day waiting period for current cable subscribers who want to switch over to satellites.

It sets the copyright rate for local signals at zero, ensuring such signals will be available at consumer friendly rates.

It extends existing satellite copyright license for another 5 years, making sure they can get local signals.

It cuts the copyright rates for distant network signals by as much as 45 percent, making service to American consumers cheaper and more affordable.

It even allows owners of recreation vehicles and long-haul trucks to be eligible to receive distant network signals in their vehicles through their satellite service.

For those who have been concerned or angered by the Corporation for Public Broadcasting sharing their donor list, worry no more. The bill prohibits the receipt of Federal funds to any CPB broadcast entity who shares their donor list, plain and simple, with any political entity.

It also allows the contributor an added bonus. It allows an opt-out to make sure a name is not shared with anyone, whether affiliated or not affiliated.

For those in rural America, this bill provides incentives.

This is a good conference report. It combines the telecommunications provisions of H.R. 851, the Save Our Satellites Act of 1999, as reported, and the copyright provisions of H.R. 1027, the Satellite Television Improvement Act, as reported. The history of the bill can, therefore, be found in the applicable portions of the two reports filed by our two committees on these two bills.

I think it strikes the right balance, and I urge my colleagues' support.

Mr. Speaker, let me thank the hard work of a large group of Members who had a role in bringing this conference report together: The gentleman from Virginia (Mr. BLILEY), the chairman of the Committee on Commerce, and the gentleman from Michigan (Mr. DINGELL), the ranking member; the gentleman from Massachusetts (Mr. MARKEY), the subcommittee ranking member; the gentleman from Virginia (Mr. BOUCHER) from the Committee on Commerce; the gentleman from Illinois

(Mr. HYDE), the chairman of the Committee on the Judiciary; the gentleman from North Carolina (Mr. COBLE), the subcommittee chairman; the gentleman from Michigan (Mr. CONYERS), the ranking member; and the gentleman from California (Mr. BERMAN), the subcommittee ranking member; and the gentleman from Virginia (Mr. GOODLATTE) from the Committee on the Judiciary.

This is a bipartisan, bicommittee approach to a very important legislative bill. If there is one bill that has to get done before we go home from this session, this is the must-pass bill. I am pleased we were able to work together to bring this compromise to the House.

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

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

Mr. Speaker, in urban America, for a generation, we have not been able to take advantage of the satellite revolution. Yes, laws have been passed to make it possible for those that live in rural America, whether they have these 8-foot dishes in their back yard that would have required zoning variances in Boston, to be able to capture programming that benefits their consumers.

In 1992, the gentleman from Louisiana (Mr. TAUZIN) and I, out here on the floor, argued for better programming access so that satellite dishes would have better access to more programming. And that passed and actually gave birth to the 18-inch dish, this pizza-sized satellite dish, which would make it possible in urban America to put a satellite dish on one's home or in the back yard without having the neighbors protest in those densely populated communities.

However, the problem existed for all urban consumers because they could not get their local TV stations on their satellite dish. So those who came from Boston could not get channel 4, channel 5, channel 7, channel 56, channel 38, channel 25, where the Bruins and the Celtics and the Red Sox reside. So, as a result, consumers in Boston and other urban areas were forced to continue to use cable as the other mechanism by which they could have programming other than broadcast plus broadcast come into their home.

This bill changes that. This bill, for the first time, makes it possible for consumers in urban areas to really think seriously about getting a satellite dish, because for the first time they can get their local TV stations. They do not have to get up and start fooling with the rabbit ears on their TV set if they want to switch over from satellite to their local TV stations. They will not have to buy the local basic cable package if they want to get their local TV stations in concert with their satellite dish.

So this local-into-local service is going to begin the revolution which will make it possible for urban Americans to enjoy the same video enjoyment which rural Americans have had access to for a generation. I know I am planning on considering that purchase this Christmas.

I am, however, very disappointed that the conference committee did not accept the stronger House version of this provision that would have been more competitive, more pro-consumer, and would have ensured that we have telescoped the time frame fully to the point where every single urban American would have been able to consider immediately this new satellite service.

In general, the House bill was a better bill than what the Senate produced or what we wound up with here at the end of the process. Late changes in the conference are a step in the right direction, and it made the bill more acceptable. And I believe that it is worthy of support, even though I believe Congress is giving up an excellent opportunity to promote greater choice and price competition, price competition to cable.

I am hopeful that we can return in the next Congress and revisit these cable competition issues. Consumers deserve greater choice and they deserve greater efforts on the part of policymakers to make such choice ubiquitous and affordable.

The gentleman from Louisiana (Mr. TAUZIN) has gone through the litany of legislative saints who played a role in bringing the bill this far, and I want to compliment in turn each of those that the gentleman from Louisiana has mentioned. This is, although not perfect, a step forward in bringing this technological revolution to urban Americans, and I hope that it can find support here on the floor this evening.

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

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

Mr. Speaker, I am pleased to rise in strong support of H.R. 1554, the Intellectual Property and Communications Omnibus Reform Act of 1999. Countless hours have been dedicated to fashioning the satellite provisions of this legislation, balancing the interest of our constituents, intellectual property owners, satellite carriers, and the local broadcasters. I would be remiss if I did not take a moment to congratulate Members of both the House and the Senate for their hard work and dedication in bringing this legislation to fruition. Time does not permit me to call each Member by name, so I will just reiterate what my friend from Louisiana said and thank all of them who had a hand in contributing to the formulation of this package.

We have spent the past 3 years working on this legislation, and I can say without hesitation, Mr. Speaker, that this is, indeed, a very good bill. The legislation will have a tremendously beneficial effect on the citizens of this country, whether they are subscribers to satellite television or not.

We have all been concerned about a lack of competition in the multichannel television industry and what that means in terms of prices and services to our constituents. The bill gives the satellite industry a new copyright license with the ability to compete on a more even playing field, thereby giving consumers a chance.

I have received numerous letters and calls from my constituents, as I am sure many of my colleagues have from theirs, distressed over their satellite service. Many customers claim they leave the store complaining they cannot obtain their local stations through satellite service. Others feel betrayed when they have their distant network service cut off, having been sold an illegal package from the outset. Still others have been outraged at the cost they pay for the distant network signals. The time has come to address these concerns and pass legislation which makes the satellite industry more competitive with cable television. With competition comes better services at lower prices, which makes our constituents the real winners.

With this competition in mind, the legislation before us makes the following changes for the Satellite Home Viewers Act.

It reauthorizes the satellite copyright compulsory license for 5 years.

It allows new satellite customers who have received a network signal from a cable system within the past 3 months to sign up immediately for satellite service for those signals. This, as my colleagues know, is not allowed today.

It provides a discount for the copyright fees paid by the satellite carriers.

It allows satellite carriers to retransmit a local television station to households within that station's local market, just as cable does.

It protects existing subscribers from having their distant network services shut off at the end of the year, and protects all C-band customers from having their network service cut off entirely.

It allows satellite carriers to rebroadcast a national signal of the Public Broadcasting Service.

It provides an incentive for the development of a system to bring local signals to smaller, mostly rural areas and markets.

It empowers the FCC to conduct a rulemaking to determine the appropriate standards for satellite carriers concerning which customers should be allowed to receive distant network Signals.

☐ 1830

The legislation before us today is a balanced approach, Mr. Speaker. It is not perfect, like most pieces of legislation, but it is a carefully balanced compromise. It removes many of the obstacles standing in the way of true competition yet does not reward those in the satellite industry for their obvious illegal activities concerning a distant network signal. The real winners, Mr. Speaker, are our constituents, the consumers.

I urge all Members to support this constituent-friendly legislation.

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

Mr. CONYERS. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, paying due deference to all of the saints responsible for the bill listed by the gentleman from Louisiana (Chairman TAUZIN), the gentleman from North Carolina (Chairman COBLE), the gentleman from Massachusetts (Mr. MARKEY), the ranking member, and our colleagues on both committees, the gentleman from California (Mr. BERMAN) and the gentleman from Virginia (Mr. BOUCHER), this conference report has finally reached the floor.

Some think it may be the signal that we will be released soon because this is a bill that had to go through. It represents the culmination of several years of debate on intellectual property issues that affect both consumers, broadcasters, satellite companies, domain name holders, and patent holders.

The most important change the bill makes is allowing satellite carriers to offer local-to-local service. As we know, under current law, consumers may not receive local network signals along satellite services unless they are in a service area where local reception is blocked.

By eliminating this restriction, we will allow the satellite companies to provide more viable competition with cable, which will enhance consumer choice and services. This is good.

At the same time we are eliminating the barriers to entry by satellite, the bill also helps ensure that there is a level playing field between cable and satellite. This is good.

Under current law, cable is subject to legal must-carry requirements, which ensure that they carry all local service channels. This bill provides for a mechanism for importing this requirement on satellite companies, which again will serve to broaden the choices consumers have in programming.

Another important reform included in the bill includes loan guarantees provided for companies that want to retransmit local signals to rural markets. Far too much of the information revolution has passed by rural America. On our committee, the gentleman from Virginia (Mr. BOUCHER) has done an excellent job in this regard and has helped the bill immeasurably.

Telecommunication firms have argued that it is not economically feasible to offer satellite and other advanced services in these areas. We have done differently. The conference report will help to ensure that the capital exists to offer rural America access to their local signals.

I urge support of the measure before us.

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

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

Mr. Speaker, I rise for the purpose of engaging in a colloquy with my friend the gentleman from North Carolina (Mr. COBLE).

Mr. Speaker, a provision in this legislation provides that Internet service providers may not avail themselves of the compulsory license for terrestial systems under Section 111 of the Copyright Act and satellite systems under Sections 119 and 122.

I, the gentleman from Virginia (Mr. BLILEY), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Massachusetts (Mr. MARKEY) believe that a wholesale exclusion from the compulsory license based solely on the technology used by potential licensees to retransmit the program may be inappropriate.

If on-line service providers can meet the underlying requirements of the compulsory license, they should not be discriminated against simply because of the medium used.

It is my understanding that the gentleman is committed to working with me, the gentleman from Virginia (Mr. BLILEY), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Massachusetts (Mr. MARKEY) in addressing this concern this session.

Mr. Speaker, I ask the gentleman from North Carolina (Mr. COBLE), is that correct?

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

Mr. TAUZIN. I yield to the gentleman from North Carolina.

Mr. COBLE. Mr. Speaker, I would say that the gentleman from California (Mr. BERMAN), the gentleman from Michigan (Mr. CONYERS), and the gentleman from Illinois (Mr. HYDE) and are in agreement to work to address this matter.

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

Mr. TAUZIN. I yield to the gentleman from California.

Mr. BERMAN. Mr. Speaker, without conceding any of the assumptions in the preface to the question of the gentleman from Louisiana (Mr. TAUZIN), I would be enthusiastic about working with the gentleman on this issue.

Mr. TAUZIN. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Wyoming (Mrs. CUBIN.)

Mrs. CUBIN. Mr. Speaker, I would like to start by thanking the gentleman from Virginia (Chairman BLILEY), the chairman of the Committee on Commerce, for his remarkable work in getting this very important piece of legislation on the House floor tonight.

I am particularly pleased with the bill's rural provisions, which include a fiscally responsible plan that will ensure that all customers, including medium size and small markets, will have access to local broadcast signals by way of satellite.

The conference report includes a $1.25 billion Agriculture Department loan guarantee to help support the launch of satellite systems dedicated to provide television service to hundreds of rural and underserved markets.

Without this plan, only the largest television markets in America will be able to receive local-into-local service which is authorized by this legislation. The cities that will be served will only be those with millions-of-television households.

Even under the most optimistic local-to-local plan, it will require 2 to 3 years to put into service, and then it will only be available in about 70 of the 210 television markets in the United States.

The two largest television markets in Wyoming are Casper and Cheyenne. They both rank under 177. They would probably never receive local-into-local service without the loan guarantee provisions that are included in this bill.

Once again, I want to thank the gentleman from Virginia (Chairman BLILEY), the gentleman from Louisiana (Mr. TAUZIN), the gentleman from North Carolina (Chairman COBLE), and the gentleman from Virginia (Mr. BOUCHER) for all of their hard work in getting this bill to the floor in a timely manner.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER).

Mr. CONYERS. Mr. Speaker, I also yield 2 minutes to the gentleman from Virginia (Mr. BOUCHER).

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The gentleman from Virginia (Mr. BOUCHER) is recognized for 4 minutes.

Mr. BOUCHER. Mr. Speaker, I want to thank my friends and colleagues from Massachusetts and from Michigan for yielding me this time.

I rise in support of the conference agreement and offer congratulations to my fellow conferees for performing well the challenging task of balancing a range of complex policy choices.

The new ''satellite home viewer act'' will be good for consumers. It assures that millions of rural Americans who live a long way from local TV stations can continue to receive network signals delivered by satellite. It fully authorizes an entirely new satellite service for the benefit of TV viewers.

For the first time, satellite companies will be able to offer not just national programs but also local television stations. They will up-link local stations to the satellite and spot beam those stations back into the markets of their origination.

With this advance, satellite companies will become completely viable competitors for cable TV companies and will offer all of the choices including local programs that cable companies offer at the present time.

This advance will benefit consumers by giving them a viable alternative to cable for multi-channel video services. It will serve as a competitive check on cable rates, benefiting even those viewers who continue to subscribe to cable television. And it will assure local broadcasters that, for the first time, they can reliably reach every viewer within their market.

I particularly want to thank the conferees in the House and in the other

body for accepting a proposal that I made in partnership with my colleague, the gentleman from Virginia (Mr. GOODLATTE), to facilitate the offering of the new local-into-local satellite service, not just in the largest cities but in all 211 local television markets nationwide.

The commercial satellite companies have announced their intention to offer the local-into-local service only in the largest 67 cities.

The provision that the gentleman from Virginia (Mr. GOODLATTE) and I sponsored, which is a part of this conference report, will enable the U.S. Department of Agriculture to provide a loan guarantee in the amount of $1.25 billion to make feasible the construction, launch, and operation of enough satellites to provide the local-into-local service in all television markets nationwide, including the medium sized and the smaller markets that the commercial companies do not intend to serve.

I thank my colleague, the gentleman from Virginia (Mr. GOODLATTE), for his excellent efforts; and I thank other members of the conference for accepting this proposal. The interest of rural viewers will be well served by this advance, as they will by the adoption of this conference report. I am pleased to encourage its adoption by the House.

Mr. COBLE. Mr. Speaker, may I ask the Chair how much time I have remaining.

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. COBLE) has 6 minutes remaining. The gentleman from Louisiana (Mr. TAUZIN) has 30 seconds remaining. The gentleman from Michigan (Mr. CONYERS) has 5½ minutes remaining. The gentleman from Massachusetts (Mr. MARKEY) has 4 minutes remaining.

Mr. COBLE. Mr. Speaker, I yield 2½ minutes to the gentleman from Roanoke Valley, Virginia (Mr. GOODLATTE).

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

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman for yielding me the time, and I congratulate him and the gentleman from Illinois (Chairman HYDE) of the Committee on the Judiciary for their outstanding work on this.

This is truly a bipartisan effort. I want to thank the gentleman from Michigan (Mr. CONYERS), the ranking member, and the gentleman from California (Mr. BERMAN) as well and the Committee on Commerce. This is a cooperative venture between two committees that have worked out this very fine legislation.

But I, most especially, want to thank the gentleman from Virginia (Mr. BOUCHER), my colleague, for his very fine leadership on the rural local-into-local provisions in this bill. Because without those provisions, this bill would not do very much for those many, many tens of millions of Americans living in those smaller markets in this country.

And so it is truly exciting to have the opportunity to now know that in the near future my constituents who are having a problem being able to get their local news, weather, sports, emergency information, community information broadcast to them by satellite so they have a competitive alternative to cable, or in the rural areas the only alternative. And to be able to get that local broadcast is truly an exciting part of this bill.

But there are many other outstanding provisions, as well. That competition I just referred to that we will get now between satellite and cable in urban areas is a great development. The legislation in this bill dealing with cyber-squatting and cracking down on those who would steal other people's trademark names, as well as the patent provisions in this bill, are also all worth noting.

Now, one provision has been raised that is of concern to the on-line service provider industry, and I want to make it clear that I strongly support preserving the current law on this issue. On-line service providers should not be precluded from competing with satellite and cable providers if they qualify for the same license.

Especially important is this issue for people in rural areas to be able to get the choice of where they will get their programs, and Congress should be conscious of the unintended consequences of excluding an exciting new medium and the unintended consequences of excluding that medium.

So I intend to work with the other Members who have worked on this legislation to be sure that we find another vehicle to address those concerns before the House adjourns for the year.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. BERMAN), the ranking member on our subcommittee; and I thank him for his excellent work.

Mr. BERMAN. Mr. Speaker, I rise in support of H.R. 1554, a bill which is truly enormous in its scope.

Its central purpose, of course, is to afford more American consumers the opportunity to view their own local stations by satellite, a sensible goal that I strongly endorse.

At the same time that I endorse the competitive parity we seek to achieve in this legislation between the satellite and cable industries, it is certainly the case that this bill does so at the expense of certain important principles.

I have made no secret in the past of my distaste for compulsory licenses. Yet this bill extends such a license, indeed one that has been massively violated by its beneficiaries, for another 5 years.

I might just add at this particular point and for the comments of the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Louisiana (Mr. TAUZIN) that there is some thought that, without hearings, without consideration, we are going to take the copyrighted content of our creative communities around this country and around this world and all of a sudden, by legal brief or by interpretation of a definition enacted when no one had any idea about this dreaming technology, assume that now there is compulsory license for Internet service providers without hearings, without discussion, without consideration.

☐ 1845

I would like to hear the compelling case for that particular move before this House is asked to consider it.

On another point, I strongly supported the marketplace approach taken in the 1994 Satellite Home Viewer Act amendments; namely, that the royalty fees paid by satellite services for programming obtained under the satellite compulsory license should be set at fair market value. Yet this conference report discounts the rate set by the Copyright Arbitration Royalty Panel and upheld by the U.S. Court of Appeals for the District of Columbia.

Finally and unfortunately in the last few days of the conference committee deliberations, a provision was added, which I strongly oppose, which delays for 6 months the obligation of multichannel video programming distributors to obtain consent for the retransmission of the signals of television broadcast stations in their local markets.

I look at these features of the conference report and I am struck by the degree to which this Congress, indeed this Republican majority, is imposing artificial, government-contrived impediments to the ability of the marketplace to determine the terms for delivery of broadcast signals.

Notwithstanding all of that, I am a supporter of this conference report, because it does provide the competition by satellite to cable that is needed through the delivery of local-to-local, through the addition of provisions fought for by the gentleman from Virginia. And if the urban legislators who once this passes have multifaceted choices for different media, in regular, free, on-the-air television, cable and satellite, are not willing to help the people in rural areas at least have some competitive alternative, it would be a very sad day.

I endorse the provisions of this bill.

Mr. MARKEY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, up in Boston, there is one man whom we revere whose philosophy is instilled in each of us. His philosophy was, ''All politics is local.'' His name was Tip O'Neill. Tonight he would be saying, ''All politics is local-into-local,'' making sure you can take your local TV stations, beam them up to a satellite and bring them right back down, watch the Red Sox, watch the Bruins, watch the Celtics, on their local TV stations. Then you can disconnect your cable company if you like. If they are not coming soon enough to satisfy you and there is bad service, if they are putting up the rates too high for the limited number of

channels they are providing you, this option now becomes one that you can consider. My father used to say to me, ''Eddie, I'd disconnect cable in a second, but it would just be a pain to have to get up and flick the switch and then try to move the rabbit ears.''

Mr. Speaker, tonight for my father and for millions like him across the country, this gives them the opportunity to begin to make that decision.

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

Mr. COBLE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California (Mr. ROGAN), a member of the Committee on the Judiciary.

Mr. ROGAN. I thank the gentleman for yielding me this time.

Mr. Speaker, I am pleased to join my colleagues tonight in support of the conference agreement. This legislation will significantly increase competition in the satellite broadcast market and provide consumers across the United States with cutting edge services.

In addition, the bill offered earlier by my good friend from Virginia and I is now incorporated as title III in this conference report. Our legislation, the Cyberpiracy Prevention Act of 1999, will address the issue of cyberpiracy.

Cyberpiracy is the deceptive practice of registering an Internet domain name using the name of an existing entity or individual for the purpose of commercial gain. This bill prevents cybersquatting when a trademark, service mark, famous name or any personal name is involved. Typically, cybersquatters act against registered trademarks in a variety of ways.

Mr. Speaker, this bill as amended will protect the interests of the public mark owners and famous individuals from these fraudulent practices on the Internet. This bill provides legal recourse for those who have been exploited by cybersquatters, and extends current trademark protections to the world of e-commerce.

I encourage my colleagues to support this important measure.

Mr. Speaker, if I may, I want to thank my good friend, my subcommittee chairman, for his leadership on this. I want to commend the leadership of my friend from Virginia who has just done exceptional work. I want to commend the staffs of both parties and also the distinguished Judiciary Committee chairman in the other body for his leadership. This is a good measure. I look forward to its passage.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, I am so pleased to support this measure before us this evening, because it is going to help me answer a question that my constituents have been asking over and over again, which is why would Congress prevent local channels from being received by satellite dishes? I can see no reason for controlling competition in the way that we have done so. This measure will help bring competition to TV transmission.

There is a further issue that I think is enormously important, and that is the inclusion of patent reform. This Congress has been on record several times urging and hoping that we could bring American patent law into the modern era. Although we are making sausage here tonight, maybe this by way of process is not pristine, the absolute end result of a good patent reform bill is well worth our support, and I am grateful that it has been included.

Mr. TAUZIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. OXLEY).

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

Mr. OXLEY. Mr. Speaker, I rise in support of the conference report. The winner in this is the consumer.

Mr. MARKEY. Mr. Speaker, I yield myself 2 minutes.

It has been a long road, Mr. Speaker, to reach this point. We began in our committee probably 25 years ago with the cable revolution forcing telephone companies and electric companies to allow cable companies to put their wires on their poles. We had to pass laws forcing then as the cable companies got very large to force them to sell their programming to satellite companies so that the satellite companies would be able to compete against cable companies.

Each one of these steps is part of a government plan, part of a bipartisan, Federal Government plan to add more competition to the marketplace. If it was left just to the incumbent companies, we would never have any additions to the video revolution. We would never have reached the day here where we can debate whether or not streaming video, America OnLine, should be part of this debate. It is only because we have made these tough government decisions to break down barriers to entry to new technologies that we are able to debate this tonight.

For millions of Americans for the first time beginning this Christmas, they may have the opportunity of deciding just to disconnect their cable and to get their local television stations for the first time from a new place, a satellite dish, and to also have at the same time the freedom of having the couple of hundred channels that satellite offers to them. That is what makes me so excited about this bill. It no longer will be a rural revolution, it now becomes officially an urban revolution.

Again, not all of the provisions that I wanted are in this bill. I do not think we are going to see the price competition which would have been made possible if we had made some tougher decisions, but I do think we are tonight taking that first step towards making urban Americans equal citizens with rural Americans in this satellite revolution.

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

Mr. COBLE. Mr. Speaker, I yield such time as he may consume 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 rise in support of the conference report and to show my support for this legislation, especially with the local-into-local commitment for our rural areas.

Mr. Speaker, I rise in support of the passage of this conference report.

On behalf of the thousands of people in rural Oregon whose only clear reception to the world of television is via satellite, passage of this measure is a welcome relief.

I would also like to commend the Committee for providing the resources to help bring local stations to rural areas. It would be unfair for the viewer in the smallest of TV markets if they were left behind while the satellite companies provide local to local service in only the largest and most lucrative markets. People in rural Oregon deserve to be able to watch the local news, weather and community service programming, provided by their community broadcasters.

This bill is a good piece of legislation that will provide new alternatives, and more competition in the market place. It deserves our support tonight in the House.

Mr. COBLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. STEARNS).

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

Mr. STEARNS. Mr. Speaker, I rise in support of the conference report.

Mr. Speaker, I rise in favor of the Conference Report to H.R. 1554 and its positive impact on consumers in the 6th District of Florida. This legislation restores television signals to those consumers who truly cannot receive their local television broadcast stations while also laying a framework for establishing local-into-local signals. And in smaller, more rural markets such as mine, it establishes loan guarantees to provide service in such areas.

But I also support this Conference Report for the privacy protections it extends to donors of public broadcasting entities. As everyone knows by now, the public broadcasting stations engaged in swapping their donor lists with Democratic party. As a result, I introduced H.R. 2791, to prohibit public broadcasting stations receiving any funding through the Corporation for Public Broadcasting from making available any lists of their financial donors.

Though the Commerce Committee did not have time to mark-up my legislation, this Conference Report extends the protections of my legislation to donors of public broadcasting entities by prohibiting any funds to a public station which swaps lists with a political entity or disclosed donor names without their consent.

I encourage my colleagues to vote in favor of the report.

Mr. COBLE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from California (Mr. Rohrabacher).

Mr. ROHRABACHER. Mr. Speaker, I rise in strong support of at least a provision, if not the entire conference report, because I just would like to talk

about a provision that I know about and where I have a little bit of expertise, and that has to do with the American patent system.

Part of this conference report has a very strong patent reform provision that has been the subject of much debate and hard work in this body for the last 5 years. It is a victory for the American inventor. We have provisions in this bill that protect American inventors from prepublication which was a major issue of contention. It protects the patent term. And it ensures a strong patent system for the money that is going in there. It is going to be kept in the patent system to strengthen it and educate the patent examiners and to make sure that America remains the number one technological power on this planet from the bottom up. There is nothing we can do from the top down when it comes to the great inventiveness of the American people.

This bill contains provisions, as I say, which we worked so hard on. A great victory for the American inventors is contained in this conference report.

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

Mr. Speaker, I want to observe the pro-consumer part of this bill a little more carefully, because this is generally a pro-consumer bill. Could we have provided greater reforms in the area of retransmission consent? I think so. Currently, large broadcasters can enter into sweetheart deals with large cable and satellite companies. That is why I supported including strong anti-discrimination language which would have allowed new firms to more fairly compete against the entrenched monopolies. Although the final language prevents exclusive contracts, it could have been tougher. It could have done more to prevent discriminatory contracts. I think we will have to continue to watch for that.

I am also a strong supporter of those provisions dealing with patent reform and cybersquatting. The patent provisions will help prevent the deceptive practices of submarine patents, extend the length of patent terms and provide for a more streamlined patent office and patent examination system. The Patent and Trademark Office is a critical cog in our high-tech economy, and the changes will help keep our country at the forefront of innovation. The cybersquatting changes will help prevent abusive registration of Internet domain names and ensure that trademark rights are respected in cyberspace.

This is a good conference report. I encourage its support by all of the Members.

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

This is the second omnibus copyright bill in as many Congresses, Mr. Speaker, revealing our commitment to address the challenges of the digital age as it involves the most important element, content. Without music, movies, software and books, all the machines in the world, Mr. Speaker, are meaningless. I am proud with my colleagues here today to stand up to protect property on the Internet, to help owners and consumers. This bill does that. This bill balances the interests involved. I urge support.

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

I want to conclude by congratulating my good friend the gentleman from Louisiana (Mr. TAUZIN) for his excellent work on this bill. We have worked many years on these issues.

I want to thank the gentleman from Virginia (Mr. BLILEY), the gentleman from Michigan (Mr. DINGELL) who wanted to be here, he is in another conference working on a health care-related issue right now; the gentleman from Michigan (Mr. CONYERS), the gentleman from California (Mr. BERMAN), the gentleman from North Carolina (Mr. COBLE), the gentleman from Virginia (Mr. BOUCHER), each one a saint, but I especially want to identify myself with the comments again of the gentleman from Michigan (Mr. CONYERS). It would have been far better if we had built in language which would have ensured that nondiscriminatory conduct against certain satellite companies could not have been engaged in. It would have been preferable if we had dealt with that issue today. Instead, our responsibility will be to monitor very closely marketplace activities and to identify wherever it occurs actions that are meant to harm those who seek to compete in this new marketplace.

Let us hope that this bill will be a success. I think each of us hopes that the revolution begins tonight.

I want to start off by commending Chairman BLILEY, Mr. DINGELL, and Chairman TAUZIN, as well as Chairman HYDE, Mr. CONYERS, Chairman COBLE, and Mr. BERMAN from the Judiciary Committee, for bringing back to the floor today the conference report on the Satellite Home Viewer Act (SHVA). And I want to thank my colleagues for their leadership and for the excellent work they have done in helping to bring a bipartisan, consensus approach to these complicated issues.

The impetus for Congress' activity on the Satellite Home Viewer Act this year is two-fold. First, having deregulated cable programming services effective in April of this year, many members of this body sought ways in which to foster greater competition to incumbent cable systems. Second, lawmakers were responding to a series of court decisions that found that people were illegally selling distant network signals to consumers in violation of the Satellite Home Viewer Act. In proceeding legislatively, we have tried to remain true to two important communications values, namely localism and universal service. We have tried to balance these values even as we factor in the innovative changes that have occurred in satellite technology, as well as the dire need for greater competition to incumbent cable companies in the video marketplace.

In the Commerce Committee, I offered an amendment to accelerate the development of so-called ''local-to-local'' service. The local-to-local amendment that I offered was designed to help accelerate competition to incumbent cable systems by authorizing a service that would permit satellite carriers the ability to provide consumers a video service that was more comparable to cable. There's no question that many consumers today who would otherwise have switched to satellite TV do not do so because they cannot effectively receive their local channels.

This service avails a consumer of the opportunity to receive his or her local TV stations by way of satellite. This promotes our policy of localism and makes satellite service more attractive to consumers. I believe that local-to-local is the future of satellite broadcasting and that it will make satellite service more comparable to cable and I am very pleased that it is included in the legislation before the House.

At a time when cable programming has been deregulated, we must work quickly to provide incentives for greater competition to incumbent cable companies and we must do so in a way that fully recognizes the market power that the cable industry continues to wield in the marketplace.

I am very disappointed that the Conference Committee did not accept the stronger House version of this provision that would have been more competitive and more pro-consumer. In general, the House bill was a better bill than what the Senate produced, or what we have wound up with here at the end of the process. Late changes to the bill in the conference are a step in the right direction and have made the bill more acceptable. I believe that it is worthy of support, but we still have much work to do in order to promote greater choice and price competition to cable.

I am hopeful that we can return as a Congress and revisit these cable competition issues. Consumers deserve greater choice and they deserve greater efforts on the part of policymakers to make such choice ubiquitous and affordable.

Again, I want to commend Chairman BLILEY, and Chairman HYDE for bringing this bill to the floor and for their leadership in working with Mr. DINGELL, Mr. CONYERS, Chairman TAUZIN, Chairman COBLE, and myself as well as others on the Committee in attempting to fashion a consensus, bipartisan approach to this difficult issue.

I continue to believe that newly-granted retransmission consent rights for both local and distant signals must have appropriate safeguards against potential anticompetitive activity stemming from the cable industry's continued market dominance. Broadcasters have a non-marketplace safeguard built into the bill in the form of must-carry. Cable competitors must have similar protection against potential anticompetitive action because of the dominant position that incumbent cable companies are able to exercise. I hope that the FCC can clarify language in the bill as it is intended to serve consumers and our competition policy where it addresses the obligation for ''good faith'' negotiations.

Local-to-local service however, will not reach many markets initially. And even the most robust business plans on the drawing board today do not envision extending local-to-local beyond the top 70 markets or so. For that reason, we still need to address issues related to how we can supplement satellite service with the delivery of local TV channels

in those smaller, rural markets with other wireless cable, terrestrial wireless, or cable broadcast-only basic tier availability.

Facilitating deployment of new technologies, such as wireless terrestrial service, could also advance the important priority of stimulating direct competitors to cable in all markets. Strong price and quality competition to incumbent cable systems is still woefully absent in today's marketplace. There are, for example, several companies poised to offer competition to cable through wireless services. One of these potential cable rivals is Northpoint Technology, which could provide cable services using existing equipment.

Finally, the conference agreement requires the Commission to conduct a number of rulemaking proceedings related to the rights of television broadcast stations, such as network nonduplication. These rulemaking procedures shall apply to commercial and noncommercial televisions stations.

Again, my congratulations to the Commerce and Judiciary Committee conferees. I urge support of the bill and I urge members who support more effective competition to incumbent cable systems to support strong rules at the FCC clarifying ''good faith'' negotiating obligations on those entities offering retransmission consent of their station's signal. Phone companies, cable overbuilders, and satellite operators need clear, pro-competition rules at the FCC and I believe the Commission ought to do this on an expedited basis. There's no reason to delay. I again urge support of the bill.

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Mr. TAUZIN. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, in closing, let me say that this has been a long battle. I say congratulations to my friend, the gentleman from Massachusetts (Mr. MARKEY).

Today, we see real competition for cable. We know that when cable faces real competition, rates can fall as much as 25 percent. Today, real competition; tomorrow, real choice. This is a victory for consumers.

For those of my colleagues who want to read the bill, it is on the web site at http://clerkweb.house.gov. My colleagues can pick it up on the web. More importantly, Americans will soon be able to pick up local television off of their satellite.

Mr. OXLEY. Mr. Speaker, Satellite television has emerged in recent years as a major competitor in the multichannel video marketplace. This is especially so in suburban and rural regions such as Ohio's Fourth Congressional District. It is a development which has been welcomed by consumers and policy makers alike.

The measure before us permits satellite television providers to deliver local broadcast channels to local viewers, bringing local news, sports, and weather to satellite customers. This will provide a major boost to satellite as a competitor to cable television.

The legislation will provide greater consumer choice and enhanced price competition for multichannel video services.

The bill also grandfathers DBS subscribers outside of the metropolitan Grade A contour who have had or are soon to have their distant network signals terminated. In addition, all owners of the larger, C-Band dishes are grandfathered. I strongly support the grandfather provisions as a matter of basic fairness for consumers.

In addition, the measure includes an amendment I offered in conference committee to protect the privacy of donors to public broadcasting stations. As members know, a scandal erupted this summer when it was discovered that PBS and NPR stations around the nation had been swapping lists of their donors with the Democrat National Committee and other partisan entities.

The amendment prohibits the sharing of lists with political committees and campaigns. In addition, my amendment requires that donors to public broadcasting stations be given the opportunity to opt-out of any sharing of their personal data. The third-party opt-out is similar to the privacy amendment which I added to S. 900, Financial Services Modernization. I'm pleased that the conference committee has taken this step to protect the privacy of public broadcasting contributors.

Mr Speaker, I urge support for the conference report.

Mrs. CAPPS. Mr. Speaker, I rise in strong support of the satellite television conference report.

I am very pleased we are able to consider this important legislation that will enable satellite television users to receive network signals. This bill represents an important victory for consumers across the country.

My constituents in Santa Barbara and San Luis Obispo counties in California have been heavily affected by this issue. My district is a rural, mountainous area, and thousands of people have turned to satellites as the only way to receive television signals. These people bought their satellites with the understanding that they would be able to receive national network stations. I am pleased that this bill will enable them to continue to do so.

It is clear that satellite users expect—and deserve—access to all television signals. And most importantly, they should be able to receive local network stations. Local TV is in many ways our modern town square. Our constituents need local TV stations for complete and up-to-date news, weather, and information about community events. The local-into-local satellite broadcasting provision, which enables households to receive their local stations through their satellite package, is perhaps the most important in the bill.

As this bill made its way through the legislative process, I was concerned that limited satellite technological capacity could provide local-into-local coverage for only the largest media markets. This would mean that Central Coast citizens would not be able to get their local TV stations through their satellites since we live in a small, rural market. I brought these concerns to the attention of the conferees and am pleased that the bill now creates a loan guarantee program to encourage satellite service in rural areas and smaller markets. This provision should ensure that all consumers will have access to local television through their satellite dish.

I urge my colleagues to support this bill and restore fairness for satellite viewing customers.

Mr. DINGELL. Mr. Speaker, I rise in support of the Conference Report on H.R. 1554.

Consumers will greatly benefit from the bill. They will finally be legally entitled to receive their local broadcast stations when they subscribe to satellite television service. No longer will consumers be required to fool with rabbit ears, or erect a huge antenna on their rooftop, to receive their local network stations. The satellite dish they buy this holiday season will be able to provide them with a one-stop source for all their television programming.

But the bill helps consumers in another very important way. Cable television prices were deregulated on April 1st of this year, despite the fact that effective competition to these systems was practically non-existent at that time. This bill now will allow satellite companies to compete more effectively with cable systems, and provide a real-market check on the rates they charge consumers. If cable rates continue to climb, as they have done for the past several years, consumers will be able to fight back—they'll now have a real choice for their video programming service.

Despite these benefits, it is true that in some of the smaller markets around the country, satellite companies will not provide local broadcast signals right away. This is due to technical capacity limitations that currently exist. In those smaller markets, consumers who subscribe to satellite TV will still be required to get their local stations over-the-air through the use of a conventional antenna.

This raises an important question that is the subject of considerable debate. The question is whether these consumers can actually receive an acceptable picture over-the-air, through the use of an antenna. The House bill would have given the Federal Communications Commission authority to change the rules governing which consumers receive an acceptable picture, and which do not. Those who do not would be allowed to subscribe to out-of-market, or ''distant'' network signals as part of their satellite television service.

Unfortunately, the House position was not adopted by the Conferees. Instead, the Conference Report simply requires the FCC to study this question and report back to Congress. A study will not help consumers who want satellite service, but are denied access to network programming. I hope that the distinguished Chairman of the Commerce Committee will take swift and appropriate action when that FCC report comes back to this body with its recommended changes. These rules need to be changed if we are ever going to have truly effective competition to cable.

Mr. Speaker, I believe that the Conference Report, on balance, is a pro-consumer, pro-competitive piece of legislation and recommend its approval.

Mr. BLILEY. Mr. Speaker, I rise in strong support of the Conference Report on H.R. 1554, the Intellectual Property and Communications Omnibus Reform Act of 1999.

Mr. Speaker, this bill represents a significant achievement for the 106th Congress. When the Committee on Commerce began its deliberations on this measure nearly a year ago, we established that our overarching objective would be to produce a bill that creates competition with incumbent cable operators.

Because in the end, it is competition—and competition alone!—that will discipline cable operators. We tried cable rate regulation. And it failed—miserably.

But now the House stands on the brink of passing a strong pro-competition, pro-consumer bill.

I should add that, as early as last week, this legislation was headed in the wrong direction.

The draft legislation preserved the status quo * * * rather embracing the future and providing meaningful competition.

But during the last several days, several key provisions were included that put this legislation back on track. The Conferees included a provision that will jump-start local-into-local, and also included a provision that will permit many consumers to continue receiving two distant network signals.

With the addition of these two provisions, Congress can now genuinely represent to consumers that they will have a choice—and soon. This holiday season, for the first time, consumers will be able to go into their local consumer electronics store and purchase a true alternative to cable.

Until today, many consumers who considered buying satellite service decided not to buy it because satellite was missing a key ingredient: local broadcast channels. This legislation adds the missing ingredient. And every indication is that satellite subscribership will increase as a result.

Moreover, by phasing in local broadcasters' retransmission consent rights, this bill will jump-start local-into-local service. By this Christmas, tens of millions of satellite consumers will have access to local broadcast channels. DIRECTV alone will offer local broadcast channels to up to 50 million homes.

That accounts for about half of the nation's TV households. That's also a recipe for meaningful competition. And that's why I urge my colleagues to join me in supporting this Conference Report.

In closing, Mr. Speaker, let me acknowledge the work of several of my colleagues on the Conference. I commend the work of Mr. TAUZIN, Mr. OXLEY, and Mr. MARKEY, as well as the commitment of Mr. HYDE, Mr. COBLE, and Mr. GOODLATTE.

I also want to extend a special thanks to the Chairman of the Senate Judiciary Committee, Mr. HATCH. He and I worked closely together these last few days in an effort to forge a bill that not only would be good for consumers, but also a bill that key industry participants could jointly support. I commend him for his fine work in this area.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to speak on behalf of H.R. 1554, which I supported in an earlier vote on the floor. This conference report redefines the role of our telecommunications industry by establishing fair competition for those participating within this industry.

This bill is an important one for several reasons. First, because it provides the rules and regulations that will allow satellite service providers, like Prime Star and Direct TV, to compete for television services in areas that have until now, been traditionally dominated by cable companies.

In the past, satellite service providers, unlike their land-based competitors, have not been allowed to re-broadcast local television signals. The result of this inequity has seriously undermined the ability of dish providers to provide meaningful competition to cable, notwithstanding the development of small dish-based systems that are more affordable than ever before.

This bill rectifies this situation, by finally allowing satellite service providers to provide local television programming to their customers. This means that my constituents in Houston will be able to select between at least two services to satisfy their television needs. The fact that we are giving dish-providers the ability to rebroadcast local signals, however, does not come without additional responsibility. Under this bill, dish-providers will not be able to carry only those signals that stand to earn them a great deal of profit—they must also carry all of those local signals that are required of the cable companies. After all, this bill was designed in order to erase inequities, not further them.

Another mechanism in this bill that provides for an equal footing is the non-discrimination clause, which tells broadcasters that they must make their signals available for rebroadcast by cable and satellite companies. This prevents broadcasters from altering the landscape of competition in their markets by tipping the scales in favor of one side over the other by allowing them to chose who will have the rights to re-broadcast their signals.

Most of all, however, I am convinced that we are addressing a topic that is vital to our constituents. Mr. Speaker, I would like to thank this bill's sponsors and those who participated in the conference on moving forward with this needed bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ARMEY) that the House suspend the rules and agree to the conference report on the bill, H.R. 1554.

The question was taken.

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

The yeas and nays were ordered.

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

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1390

Mr. WHITFIELD. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1390.

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

There was no objection.

DECEPTIVE MAIL PREVENTION AND ENFORCEMENT ACT

Mr. McHUGH. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 335) to amend chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to sweepstakes, skill contests, facsimile checks, administrative procedures, orders, and civil penalties relating to such matter, and for other purposes, as amended.

The Clerk read as follows:

S. 335

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

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

TITLE I—DECEPTIVE MAIL PREVENTION AND ENFORCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the ''Deceptive Mail Prevention and Enforcement Act''.

SEC. 102. RESTRICTIONS ON MAILINGS USING MISLEADING REFERENCES TO THE UNITED STATES GOVERNMENT.

Section 3001 of title 39, United States Code, is amended—

(1) in subsection (h)—

(A) in the first sentence by striking ''contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement'' and inserting the following: ''which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government''; and

(B) in paragraph (2)—

(i) in subparagraph (A) by striking ''and'' at the end;

(ii) in subparagraph (B) by striking ''or'' at the end and inserting ''and''; and

(iii) by inserting after subparagraph (B) the following:

''(C) such matter does not contain a false representation stating or implying that Federal Government benefits or services will be affected by any purchase or nonpurchase; or'';

(2) in subsection (i) in the first sentence—

(A) in the first sentence by striking ''contains a seal, insignia, trade or brand name, or any other term or symbol that reasonably could be interpreted or construed as implying any Federal Government connection, approval or endorsement'' and inserting the following: ''which reasonably could be interpreted or construed as implying any Federal Government connection, approval, or endorsement through the use of a seal, insignia, reference to the Postmaster General, citation to a Federal statute, name of a Federal agency, department, commission, or

program, trade or brand name, or any other term or symbol; or contains any reference to the Postmaster General or a citation to a Federal statute that misrepresents either the identity of the mailer or the protection or status afforded such matter by the Federal Government''; and

(B) in paragraph (2)—

(i) in subparagraph (A) by striking ''and'' at the end;

(ii) in subparagraph (B) by striking ''or'' at the end and inserting ''and''; and

(iii) by inserting after subparagraph (B) the following:

''(C) such matter does not contain a false representation stating or implying that Federal Government benefits or services will be affected by any contribution or noncontribution; or'';

(3) by redesignating subsections (j) and (k) as subsections (m) and (n), respectively; and

(4) by inserting after subsection (i) the following:

''(j)(1) Any matter otherwise legally acceptable in the mails which is described in paragraph (2) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

''(2) Matter described in this paragraph is any matter that—

''(A) constitutes a solicitation for the purchase of or payment for any product or service that—

''(i) is provided by the Federal Government; and

''(ii) may be obtained without cost from the Federal Government; and

''(B) does not contain a clear and conspicuous statement giving notice of the information set forth in clauses (i) and (ii) of subparagraph (A).''.

SEC. 103. RESTRICTIONS ON SWEEPSTAKES AND DECEPTIVE MAILINGS.

Section 3001 of title 39, United States Code, is amended by inserting after subsection (j) (as added by section 102(4)) the following:

''(k)(1) In this subsection—

''(A) the term 'clearly and conspicuously displayed' means presented in a manner that is readily noticeable, readable, and understandable to the group to whom the applicable matter is disseminated;

''(B) the term 'facsimile check' means any matter that—

''(i) is designed to resemble a check or other negotiable instrument; but

''(ii) is not negotiable;

''(C) the term 'skill contest' means a puzzle, game, competition, or other contest in which—

''(i) a prize is awarded or offered;

''(ii) the outcome depends predominately on the skill of the contestant; and

''(iii) a purchase, payment, or donation is required or implied to be required to enter the contest; and

''(D) the term 'sweepstakes' means a game of chance for which no consideration is required to enter.

''(2) Except as provided in paragraph (4), any matter otherwise legally acceptable in the mails which is described in paragraph (3) is nonmailable matter, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs.

''(3) Matter described in this paragraph is any matter that—

''(A)(i) includes entry materials for a sweepstakes or a promotion that purports to be a sweepstakes; and

''(ii)(I) does not contain a statement that discloses in the mailing, in the rules, and on the order or entry form, that no purchase is necessary to enter such sweepstakes;

''(II) does not contain a statement that discloses in the mailing, in the rules, and on the order or entry form, that a purchase will not improve an individual's chances of winning with such entry;

''(III) does not state all terms and conditions of the sweepstakes promotion, including the rules and entry procedures for the sweepstakes;

''(IV) does not disclose the sponsor or mailer of such matter and the principal place of business or an address at which the sponsor or mailer may be contacted;

''(V) does not contain sweepstakes rules that state—

''(aa) the estimated odds of winning each prize;

''(bb) the quantity, estimated retail value, and nature of each prize; and

''(cc) the schedule of any payments made over time;

''(VI) represents that individuals not purchasing products or services may be disqualified from receiving future sweepstakes mailings;

''(VII) requires that a sweepstakes entry be accompanied by an order or payment for a product or service previously ordered;

''(VIII) represents that an individual is a winner of a prize unless that individual has won such prize; or

''(IX) contains a representation that contradicts, or is inconsistent with sweepstakes rules or any other disclosure required to be made under this subsection, including any statement qualifying, limiting, or explaining the rules or disclosures in a manner inconsistent with such rules or disclosures;

''(B)(i) includes entry materials for a skill contest or a promotion that purports to be a skill contest; and

''(ii)(I) does not state all terms and conditions of the skill contest, including the rules and entry procedures for the skill contest;

''(II) does not disclose the sponsor or mailer of the skill contest and the principal place of business or an address at which the sponsor or mailer may be contacted; or

''(III) does not contain skill contest rules that state, as applicable—

''(aa) the number of rounds or levels of the contest and the cost to enter each round or level;

''(bb) that subsequent rounds or levels will be more difficult to solve;

''(cc) the maximum cost to enter all rounds or levels;

''(dd) the estimated number or percentage of entrants who may correctly solve the skill contest or the approximate number or percentage of entrants correctly solving the past 3 skill contests conducted by the sponsor;

''(ee) the identity or description of the qualifications of the judges if the contest is judged by other than the sponsor;

''(ff) the method used in judging;

''(gg) the date by which the winner or winners will be determined and the date or process by which prizes will be awarded;

''(hh) the quantity, estimated retail value, and nature of each prize; and

''(ii) the schedule of any payments made over time; or

''(C) includes any facsimile check that does not contain a statement on the check itself that such check is not a negotiable instrument and has no cash value.

''(4) Matter that appears in a magazine, newspaper, or other periodical shall be exempt from paragraph (2) if such matter—

''(A) is not directed to a named individual; or

''(B) does not include an opportunity to make a payment or order a product or service.

''(5) Any statement, notice, or disclaimer required under paragraph (3) shall be clearly and conspicuously displayed. Any statement, notice, or disclaimer required under subclause (I) or (II) of paragraph (3)(A)(ii) shall be displayed more conspicuously than would otherwise be required under the preceding sentence.

''(6) In the enforcement of paragraph (3), the Postal Service shall consider all of the materials included in the mailing and the material and language on and visible through the envelope or outside cover or wrapper in which those materials are mailed.

''(l)(1) Any person who uses the mails for any matter to which subsection (h), (i), (j), or (k) applies shall adopt reasonable practices and procedures to prevent the mailing of such matter to any person who, personally or through a conservator, guardian, or individual with power of attorney—

''(A) submits to the mailer of such matter a written request that such matter should not be mailed to such person; or

''(B)(i) submits such a written request to the attorney general of the appropriate State (or any State government officer who transmits the request to that attorney general); and

''(ii) that attorney general transmits such request to the mailer.

''(2) Any person who mails matter to which subsection (h), (i), (j), or (k) applies shall maintain or cause to be maintained a record of all requests made under paragraph (1). The records shall be maintained in a form to permit the suppression of an applicable name at the applicable address for a 5-year period beginning on the date the written request under paragraph (1) is submitted to the mailer.''.

SEC. 104. POSTAL SERVICE ORDERS TO PROHIBIT DECEPTIVE MAILINGS.

Section 3005(a) of title 39, United States Code, is amended—

(1) by striking ''or'' after ''(h),'' each place it appears; and

(2) by inserting '', (j), or (k)'' after ''(i)'' each place it appears.

SEC. 105. TEMPORARY RESTRAINING ORDER FOR DECEPTIVE MAILINGS.

(a) IN GENERAL.—Section 3007 of title 39, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by striking subsection (a) and inserting the following:

''(a)(1) In preparation for or during the pendency of proceedings under section 3005, the Postal Service may, under the provisions of section 409(d), apply to the district court in any district in which mail is sent or received as part of the alleged scheme, device, lottery, gift enterprise, sweepstakes, skill contest, or facsimile check or in any district in which the defendant is found, for a temporary restraining order and preliminary injunction under the procedural requirements of rule 65 of the Federal Rules of Civil Procedure.

''(2)(A) Upon a proper showing, the court shall enter an order which shall—

''(i) remain in effect during the pendency of the statutory proceedings, any judicial review of such proceedings, or any action to enforce orders issued under the proceedings; and

''(ii) direct the detention by the postmaster, in any and all districts, of the defendant's incoming mail and outgoing mail, which is the subject of the proceedings under section 3005.

''(B) A proper showing under this paragraph shall require proof of a likelihood of success on the merits of the proceedings under section 3005.

''(3) Mail detained under paragraph (2) shall—

''(A) be made available at the post office of mailing or delivery for examination by the defendant in the presence of a postal employee; and

''(B) be delivered as addressed if such mail is not clearly shown to be the subject of proceedings under section 3005.

''(4) No finding of the defendant's intent to make a false representation or to conduct a lottery is required to support the issuance of an order under this section.

''(b) If any order is issued under subsection (a) and the proceedings under section 3005 are concluded with the issuance of an order under that section, any judicial review of the matter shall be in the district in which the order under subsection (a) was issued.''.

(b) REPEAL.—

(1) IN GENERAL.—Section 3006 of title 39, United States Code, and the item relating to such section in the table of sections for chapter 30 of such title are repealed.

(2) CONFORMING AMENDMENTS.—(A) Section 3005(c) of title 39, United States Code, is amended by striking ''section and section 3006 of this title,'' and inserting ''section,''.

(B) Section 3011(e) of title 39, United States Code, is amended by striking ''3006, 3007,'' and inserting ''3007''.

SEC. 106. CIVIL PENALTIES AND COSTS.

Section 3012 of title 39, United States Code, is amended—

(1) in subsection (a) by striking ''$10,000 for each day that such person engages in conduct described by paragraph (1), (2), or (3) of this subsection.'' and inserting ''$50,000 for each mailing of less than 50,000 pieces; $100,000 for each mailing of 50,000 to 100,000 pieces; with an additional $10,000 for each additional 10,000 pieces above 100,000, not to exceed $2,000,000.'';

(2) in paragraphs (1) and (2) of subsection (b) by inserting after ''of subsection (a)'' the following: '', (c), or (d)'';

(3) by redesignating subsections (c) and (d), as subsections (e) and (f), respectively; and

(4) by inserting after subsection (b) the following:

''(c)(1) In any proceeding in which the Postal Service may issue an order under section 3005(a), the Postal Service may in lieu of that order or as part of that order assess civil penalties in an amount not to exceed $25,000 for each mailing of less than 50,000 pieces; $50,000 for each mailing of 50,000 to 100,000 pieces; with an additional $5,000 for each additional 10,000 pieces above 100,000, not to exceed $1,000,000.

''(2) In any proceeding in which the Postal Service assesses penalties under this subsection the Postal Service shall determine the civil penalty taking into account the nature, circumstances, extent, and gravity of the violation or violations of section 3005(a), and with respect to the violator, the ability to pay the penalty, the effect of the penalty on the ability of the violator to conduct lawful business, any history of prior violations of such section, the degree of culpability and other such matters as justice may require.

''(d) Any person who violates section 3001(l) shall be liable to the United States for a civil penalty not to exceed $10,000 for each mailing to an individual.''.

SEC. 107. ADMINISTRATIVE SUBPOENAS.

(a) IN GENERAL.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

''§ 3016. Administrative subpoenas

''(a) SUBPOENA AUTHORITY.—

''(1) INVESTIGATIONS.—

''(A) IN GENERAL.—In any investigation conducted under section 3005(a), the Postmaster General may require by subpoena the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Postmaster General considers relevant or material to such investigation.

''(B) CONDITION.—No subpoena shall be issued under this paragraph except in accordance with procedures, established by the Postal Service, requiring that—

''(i) a specific case, with an individual or entity identified as the subject, be opened before a subpoena is requested;

''(ii) appropriate supervisory and legal review of a subpoena request be performed; and

''(iii) delegation of subpoena approval authority be limited to the Postal Service's General Counsel or a Deputy General Counsel.

''(2) STATUTORY PROCEEDINGS.—In any statutory proceeding conducted under section 3005(a), the Judicial Officer may require by subpoena the attendance and testimony of witnesses and the production of any records (including books, papers, documents, and other tangible things which constitute or contain evidence) which the Judicial Officer considers relevant or material to such proceeding.

''(3) RULE OF CONSTRUCTION.—Nothing in paragraph (2) shall be considered to apply in any circumstance to which paragraph (1) applies.

''(b) SERVICE.—

''(1) SERVICE WITHIN THE UNITED STATES.—A subpoena issued under this section may be served by a person designated under section 3061 of title 18 at any place within the territorial jurisdiction of any court of the United States.

''(2) FOREIGN SERVICE.—Any such subpoena may be served upon any person who is not to be found within the territorial jurisdiction of any court of the United States, in such manner as the Federal Rules of Civil Procedure prescribe for service in a foreign country. To the extent that the courts of the United States may assert jurisdiction over such person consistent with due process, the United States District Court for the District of Columbia shall have the same jurisdiction to take any action respecting compliance with this section by such person that such court would have if such person were personally within the jurisdiction of such court.

''(3) SERVICE ON BUSINESS PERSONS.—Service of any such subpoena may be made upon a partnership, corporation, association, or other legal entity by—

''(A) delivering a duly executed copy thereof to any partner, executive officer, managing agent, or general agent thereof, or to any agent thereof authorized by appointment or by law to receive service of process on behalf of such partnership, corporation, association, or entity;

''(B) delivering a duly executed copy thereof to the principal office or place of business of the partnership, corporation, association, or entity; or

''(C) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such partnership, corporation, association, or entity at its principal office or place of business.

''(4) SERVICE ON NATURAL PERSONS.—Service of any subpoena may be made upon any natural person by—

''(A) delivering a duly executed copy to the person to be served; or

''(B) depositing such copy in the United States mails, by registered or certified mail, return receipt requested, duly addressed to such person at his residence or principal office or place of business.

''(5) VERIFIED RETURN.—A verified return by the individual serving any such subpoena setting forth the manner of such service shall be proof of such service. In the case of service by registered or certified mail, such return shall be accompanied by the return post office receipt of delivery of such subpoena.

''(c) ENFORCEMENT.—

''(1) IN GENERAL.—Whenever any person, partnership, corporation, association, or entity fails to comply with any subpoena duly served upon him, the Postmaster General may request that the Attorney General seek enforcement of the subpoena in the district court of the United States for any judicial district in which such person resides, is found, or transacts business, and serve upon such person a petition for an order of such court for the enforcement of this section.

''(2) JURISDICTION.—Whenever any petition is filed in any district court of the United States under this section, such court shall have jurisdiction to hear and determine the matter so presented, and to enter such order or orders as may be required to carry into effect the provisions of this section. Any final order entered shall be subject to appeal under section 1291 of title 28, United States Code. Any disobedience of any final order entered under this section by any court may be punished as contempt.

''(d) DISCLOSURE.—Any documentary material provided pursuant to any subpoena issued under this section shall be exempt from disclosure under section 552 of title 5, United States Code.''.

(b) REGULATIONS.—Not later than 120 days after the date of the enactment of this section, the Postal Service shall promulgate regulations setting out the procedures the Postal Service will use to implement the amendment made by subsection (a).

(c) SEMIANNUAL REPORTS.—Section 3013 of title 39, United States Code, is amended by striking ''and'' at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following:

''(5) the number of cases in which the authority described in section 3016 was used, and a comprehensive statement describing how that authority was used in each of those cases; and''.

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 30 of title 39, United States Code, is amended by adding at the end the following:

''3016. Administrative subpoenas.''.

SEC. 108. REQUIREMENTS OF PROMOTERS OF SKILL CONTESTS OR SWEEPSTAKES MAILINGS.

(a) IN GENERAL.—Chapter 30 of title 39, United States Code (as amended by section 107) is amended by adding after section 3016 the following:

''§ 3017. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings

''(a) DEFINITIONS.—In this section—

''(1) the term 'promoter' means any person who—

''(A) originates and mails any skill contest or sweepstakes, except for any matter described in section 3001(k)(4); or

''(B) originates and causes to be mailed any skill contest or sweepstakes, except for any matter described in section 3001(k)(4);

''(2) the term 'removal request' means a request stating that an individual elects to have the name and address of such individual excluded from any list used by a promoter for mailing skill contests or sweepstakes;

''(3) the terms 'skill contest', 'sweepstakes', and 'clearly and conspicuously displayed' have the same meanings as given them in section 3001(k); and

''(4) the term 'duly authorized person', as used in connection with an individual, means a conservator or guardian of, or person granted power of attorney by, such individual.

''(b) NONMAILABLE MATTER.—

''(1) IN GENERAL.—Matter otherwise legally acceptable in the mails described in paragraph (2)—

''(A) is nonmailable matter;

''(B) shall not be carried or delivered by mail; and

''(C) shall be disposed of as the Postal Service directs.

''(2) NONMAILABLE MATTER DESCRIBED.—Matter described in this paragraph is any matter that—

''(A) is a skill contest or sweepstakes, except for any matter described in section 3001(k)(4); and

''(B)(i) is addressed to an individual who made an election to be excluded from lists under subsection (d); or

''(ii) does not comply with subsection (c)(1).

''(c) REQUIREMENTS OF PROMOTERS.—

''(1) NOTICE TO INDIVIDUALS.—Any promoter who mails a skill contest or sweepstakes shall provide with each mailing a statement that—

''(A) is clearly and conspicuously displayed;

''(B) includes the address or toll-free telephone number of the notification system established under paragraph (2); and

''(C) states that the notification system may be used to prohibit the mailing of all skill contests or sweepstakes by that promoter to such individual.

''(2) NOTIFICATION SYSTEM.—Any promoter that mails or causes to be mailed a skill contest or sweepstakes shall establish and maintain a notification system that provides for any individual (or other duly authorized person) to notify the system of the individual's election to have the name and address of the individual excluded from all lists of names and addresses used by that promoter to mail any skill contest or sweepstakes.

''(d) ELECTION TO BE EXCLUDED FROM LISTS.—

''(1) IN GENERAL.—An individual (or other duly authorized person) may elect to exclude the name and address of that individual from all lists of names and addresses used by a promoter of skill contests or sweepstakes by submitting a removal request to the notification system established under subsection (c).

''(2) RESPONSE AFTER SUBMITTING REMOVAL REQUEST TO THE NOTIFICATION SYSTEM.—Not later than 60 calendar days after a promoter receives a removal request pursuant to an election under paragraph (1), the promoter shall exclude the individual's name and address from all lists of names and addresses used by that promoter to select recipients for any skill contest or sweepstakes.

''(3) EFFECTIVENESS OF ELECTION.—An election under paragraph (1) shall remain in effect, unless an individual (or other duly authorized person) notifies the promoter in writing that such individual—

''(A) has changed the election; and

''(B) elects to receive skill contest or sweepstakes mailings from that promoter.

''(e) PRIVATE RIGHT OF ACTION.—

''(1) IN GENERAL.—An individual who receives one or more mailings in violation of subsection (d) may, if otherwise permitted by the laws or rules of court of a State, bring in an appropriate court of that State—

''(A) an action to enjoin such violation;

''(B) an action to recover for actual monetary loss from such a violation, or to receive $500 in damages for each such violation, whichever is greater; or

''(C) both such actions.

It shall be an affirmative defense in any action brought under this subsection that the defendant has established and implemented, with due care, reasonable practices and procedures to effectively prevent mailings in violation of subsection (d). If the court finds that the defendant willfully or knowingly violated subsection (d), the court may, in its discretion, increase the amount of the award to an amount equal to not more than 3 times the amount available under subparagraph (B).

''(2) ACTION ALLOWABLE BASED ON OTHER SUFFICIENT NOTICE.—A mailing sent in violation of section 3001(l) shall be actionable under this subsection, but only if such an action would not also be available under paragraph (1) (as a violation of subsection (d)) based on the same mailing.

''(f) PROMOTER NONLIABILITY.—A promoter shall not be subject to civil liability for the exclusion of an individual's name or address from any list maintained by that promoter for mailing skill contests or sweepstakes, if—

''(1) a removal request is received by the promoter's notification system; and

''(2) the promoter has a good faith belief that the request is from—

''(A) the individual whose name and address is to be excluded; or

''(B) another duly authorized person.

''(g) PROHIBITION ON COMMERCIAL USE OF LISTS.—

''(1) IN GENERAL.—

''(A) PROHIBITION.—No person may provide any information (including the sale or rental of any name or address) derived from a list described in subparagraph (B) to another person for commercial use.

''(B) LISTS.—A list referred to under subparagraph (A) is any list of names and addresses (or other related information) compiled from individuals who exercise an election under subsection (d).

''(2) CIVIL PENALTY.—Any person who violates paragraph (1) shall be assessed a civil penalty by the Postal Service not to exceed $2,000,000 per violation.

''(h) CIVIL PENALTIES.—

''(1) IN GENERAL.—Any promoter—

''(A) who recklessly mails nonmailable matter in violation of subsection (b) shall be liable to the United States in an amount of $10,000 per violation for each mailing to an individual of nonmailable matter; or

''(B) who fails to comply with the requirements of subsection (c)(2) shall be liable to the United States.

''(2) ENFORCEMENT.—The Postal Service shall, in accordance with the same procedures as set forth in section 3012(b), provide for the assessment of civil penalties under this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The table of sections for chapter 30 of title 39, United States Code, is amended by adding after the item relating to section 3016 the following:

''3017. Nonmailable skill contests or sweepstakes matter; notification to prohibit mailings.''.

(c) EFFECTIVE DATE.—This section shall take effect 1 year after the date of the enactment of this Act.

SEC. 109. STATE LAW NOT PREEMPTED.

(a) IN GENERAL.—Nothing in the provisions of this title (including the amendments made by this title) or in the regulations promulgated under such provisions shall be construed to preempt any provision of State or local law that imposes more restrictive requirements, regulations, damages, costs, or penalties. No determination by the Postal Service that any particular piece of mail or class of mail is in compliance with such provisions of this title shall be construed to preempt any provision of State or local law.

(b) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this section shall be construed to prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State or any specific civil or criminal statute of such State.

SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REFERENCES TO REPEALED PROVISIONS.—Section 3001(a) of title 39, United States Code, is amended by striking ''1714,'' and ''1718,''.

(b) CONFORMANCE WITH INSPECTOR GENERAL ACT OF 1978.—

(1) IN GENERAL.—Section 3013 of title 39, United States Code, is amended—

(A) by striking ''Board'' each place it appears and inserting ''Inspector General'';

(B) in the third sentence by striking ''Each such report shall be submitted within sixty days after the close of the reporting period involved'' and inserting ''Each such report shall be submitted within 1 month (or such shorter length of time as the Inspector General may specify) after the close of the reporting period involved''; and

(C) by striking the last sentence and inserting the following:

''The information in a report submitted under this section to the Inspector General with respect to a reporting period shall be included as part of the semiannual report prepared by the Inspector General under section 5 of the Inspector General Act of 1978 for the same reporting period. Nothing in this section shall be considered to permit or require that any report by the Postmaster General under this section include any information relating to activities of the Inspector General.''.

(2) EFFECTIVE DATE.—This subsection shall take effect on the date of the enactment of this Act, and the amendments made by this subsection shall apply with respect to semiannual reporting periods beginning on or after such date of enactment.

(3) SAVINGS PROVISION.—For purposes of any semiannual reporting period preceding the first semiannual reporting period referred to in paragraph (2), the provisions of title 39, United States Code, shall continue to apply as if the amendments made by this subsection had not been enacted.

SEC. 111. EFFECTIVE DATE.

Except as provided in section 108 or 110(b), this title shall take effect 120 days after the date of the enactment of this Act.

TITLE II—FEDERAL RESERVE BOARD RETIREMENT PORTABILITY

SEC. 201. SHORT TITLE.

This title may be cited as the ''Federal Reserve Board Retirement Portability Act''.

SEC. 202. PORTABILITY OF SERVICE CREDIT.

(a) CREDITABLE SERVICE.—

(1) IN GENERAL.—Section 8411(b) of title 5, United States Code, is amended—

(A) by striking ''and'' at the end of paragraph (3);

(B) in paragraph (4)—

(i) by striking ''of the preceding provisions'' and inserting ''other paragraph''; and

(ii) by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(5) a period of service (other than any service under any other paragraph of this subsection, any military service, and any service performed in the employ of a Federal Reserve Bank) that was creditable under the Bank Plan (as defined in subsection (i)), if the employee waives credit for such service under the Bank Plan and makes a payment to the Fund equal to the amount that would have been deducted from pay under section 8422(a) had the employee been subject to this chapter during such period of service (together with interest on such amount computed under paragraphs (2) and (3) of section 8334(e)).

Paragraph (5) shall not apply in the case of any employee as to whom subsection (g) (or, to the extent subchapter III of chapter 83 is involved, section 8332(n)) otherwise applies.''.

(2) BANK PLAN DEFINED.—Section 8411 of title 5, United States Code, is amended by adding at the end the following:

''(i) For purposes of subsection (b)(5), the term 'Bank Plan' means the benefit structure in which employees of the Board of Governors of the Federal Reserve System appointed on or after January 1, 1984, participate, which benefit structure is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act (and any redesignated or successor version of such benefit structure, if so identified in writing by the Board of Governors of the Federal Reserve System for purposes of this chapter).''.

(b) EXCLUSION FROM CHAPTER 84.—

(1) IN GENERAL.—Paragraph (2) of section 8402(b) of title 5, United States Code, is amended by striking the matter before subparagraph (B) and inserting the following:

''(2)(A) any employee or Member who has separated from the service after—

''(i) having been subject to—

''(I) subchapter III of chapter 83 of this title;

''(II) subchapter I of chapter 8 of title I of the Foreign Service Act of 1980; or

''(III) the benefit structure for employees of the Board of Governors of the Federal Reserve System appointed before January 1, 1984, that is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act; and

''(ii) having completed—

''(I) at least 5 years of civilian service creditable under subchapter III of chapter 83 of this title;

''(II) at least 5 years of civilian service creditable under subchapter I of chapter 8 of title I of the Foreign Service Act of 1980; or

''(III) at least 5 years of civilian service (other than any service performed in the employ of a Federal Reserve Bank) creditable under the benefit structure for employees of the Board of Governors of the Federal Reserve System appointed before January 1, 1984, that is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act,

determined without regard to any deposit or redeposit requirement under either such subchapter or under such benefit structure, or any requirement that the individual become subject to either such subchapter or to such benefit structure after performing the service involved; or''.

(2) EXCEPTION.—Subsection (d) of section 8402 of title 5, United States Code, is amended to read as follows:

''(d) Paragraph (2) of subsection (b) shall not apply to an individual who—

''(1) becomes subject to—

''(A) subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 (relating to the Foreign Service Pension System) pursuant to an election; or

''(B) the benefit structure in which employees of the Board of Governors of the Federal Reserve System appointed on or after January 1, 1984, participate, which benefit structure is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act (and any redesignated or successor version of such benefit structure, if so identified in writing by the Board of Governors of the Federal Reserve System for purposes of this chapter); and

''(2) subsequently enters a position in which, but for paragraph (2) of subsection (b), such individual would be subject to this chapter.''.

(c) PROVISIONS RELATING TO CERTAIN FORMER EMPLOYEES.—A former employee of the Board of Governors of the Federal Reserve System who—

(1) has at least 5 years of civilian service (other than any service performed in the employ of a Federal Reserve Bank) creditable under the benefit structure for employees of the Board of Governors of the Federal Reserve System appointed before January 1, 1984, that is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act;

(2) was subsequently employed subject to the benefit structure in which employees of the Board of Governors of the Federal Reserve System appointed on or after January 1, 1984, participate, which benefit structure is a component of the Retirement Plan for Employees of the Federal Reserve System, established under section 10 of the Federal Reserve Act (and any redesignated or successor version of such benefit structure, if so identified in writing by the Board of Governors of the Federal Reserve System for purposes of chapter 84 of title 5, United States Code); and

(3) after service described in paragraph (2), becomes subject to and thereafter entitled to benefits under chapter 84 of title 5, United States Code,

shall, for purposes of section 302 of the Federal Employees' Retirement System Act of 1986 (100 Stat. 601; 5 U.S.C. 8331 note) be considered to have become subject to chapter 84 of title 5, United States Code, pursuant to an election under section 301 of such Act.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Subject to succeeding provisions of this subsection, this section and the amendments made by this section shall take effect on the date of enactment of this Act.

(2) PROVISIONS RELATING TO CREDITABILITY AND CERTAIN FORMER EMPLOYEES.—The amendments made by subsection (a) and the provisions of subsection (c) shall apply only to individuals who separate from service subject to chapter 84 of title 5, United States Code, on or after the date of enactment of this Act.

(3) PROVISIONS RELATING TO EXCLUSION FROM CHAPTER.—The amendments made by subsection (b) shall not apply to any former employee of the Board of Governors of the Federal Reserve System who, subsequent to his or her last period of service as an employee of the Board of Governors of the Federal Reserve System and prior to the date of enactment of this Act, became subject to subchapter III of chapter 83 or chapter 84 of title 5, United States Code, under the law in effect at the time of the individual's appointment.

SEC. 203. CERTAIN TRANSFERS TO BE TREATED AS A SEPARATION FROM SERVICE FOR PURPOSES OF THE THRIFT SAVINGS PLAN.

(a) AMENDMENTS TO CHAPTER 84 OF TITLE 5, UNITED STATES CODE.—

(1) IN GENERAL.—Subchapter III of chapter 84 of title 5, United States Code, is amended by inserting before section 8432 the following:

''§ 8431. Certain transfers to be treated as a separation

''(a) For purposes of this subchapter, separation from Government employment includes a transfer from a position that is subject to one of the retirement systems described in subsection (b) to a position that is not subject to any of them.

''(b) The retirement systems described in this subsection are—

''(1) the retirement system under this chapter;

''(2) the retirement system under subchapter III of chapter 83; and

''(3) any other retirement system under which individuals may contribute to the Thrift Savings Fund through withholdings from pay.''.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 84 of title 5, United States Code, is amended by inserting before the item relating to section 8432 the following:

''8431. Certain transfers to be treated as a separation.''.

(b) CONFORMING AMENDMENTS.—Subsection (b) of section 8351 of title 5, United States Code, is amended by redesignating paragraph (11) as paragraph (8), and by adding at the end the following:

''(9) For the purpose of this section, separation from Government employment includes a transfer described in section 8431.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to transfers occurring before, on, or after the date of enactment of this Act, except that, for purposes of applying such amendments with respect to any transfer occurring before such date of enactment, the date of such transfer shall be considered to be the date of enactment of this Act. The Executive Director (within the meaning of section 8401(13) of title 5, United States Code) may prescribe any regulations necessary to carry out this subsection.

SEC. 204. CLARIFYING AMENDMENTS.

(a) IN GENERAL.—Subsection (f) of section 3304 of title 5, United States Code, as added by section 2 of Public Law 105–339, is amended—

(1) by striking paragraph (4);

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following:

''(2) If selected, a preference eligible or veteran described in paragraph (1) shall acquire competitive status and shall receive a career or career-conditional appointment, as appropriate.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on October 31, 1998.

TITLE III—AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.

SEC. 301. TRANSFER OF CERTAIN PROPERTY TO STATE AND LOCAL GOVERNMENTS.

Section 203(p)(1)(B)(ii) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(p)(1)(B)(ii)) is amended by striking ''December 31, 1999.'' and inserting ''July 31, 2000. During the period beginning January 1, 2000, and ending July 31, 2000, the Administrator may not convey any property under subparagraph (A), but may accept, consider, and approve applications for transfer of property under that subparagraph.''.

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

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

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

I am pleased to bring forward S. 335 with the provisions of the House-passed Deceptive Sweepstakes Mailing Bill, H.R. 170, and would like to begin by taking the opportunity to thank all of the members of the Subcommittee on the Postal Service for their continued interest, for the effort they showed in moving this important legislation, and a particular tip-of-the-hat to the gentleman from the great State of Pennsylvania (Mr. FATTAH), our ranking member, for his input and for his great assistance in making this legislation

stronger and of wider appeal to those who are affected by its provisions. I firmly believe today, Mr. Speaker, by taking this action, we help to ensure the enactment of this important legislation in this year.

On behalf of the gentleman from Indiana (Mr. BURTON), our full committee chairman, I must also note that this bill, S. 335, includes provisions that it is my understanding the other body has agreed to include. Incorporated in the bill is H.R. 807, which passed the House under suspension of the rules by voice vote on March 16 of this year after being introduced on February 23 by the gentleman from Florida (Mr. SCARBOROUGH), our Subcommittee on Civil Service chairman, with eight original cosponsors including, I might add, the gentleman from California (Mr. WAXMAN), our full committee's ranking member.

Very briefly, Mr. Speaker, H.R. 807, included as Title II of S. 335, provides retirement portability for certain Federal Reserve Board employees who take jobs in the executive branch. It would allow those employees who participate in the board's FERS-like retirement plan to obtain FERS credit for their Federal Reserve years when they transfer to another Federal agency. The Federal Reserve already provides such reciprocity for employees who transfer to Federal Reserves from other Federal agencies. Without this correction, former board employees would, I think unfairly, receive smaller annuities upon retirement than they otherwise would and otherwise should.

This title will also correct an inequity in current law that prevents certain Federal Reserve employees from withdrawing their funds from the Thrift Savings Plan accounts. Finally, one section in this title is critically important to the men and women who have served our Nation in the Armed Services. It clarifies the Veterans Employment Opportunities Act of 1988 to ensure that veterans will receive the benefits that Congress intended when it passed that act last year.

Mr. Speaker, H.R. 3187, also included in this new presentation, represents a bill introduced by the gentleman from California (Mr. CALVERT) which would amend the 1949 Federal Property and Administrative Services Act to continue the authority allowing no-cost conveyances of surplus Federal property to State and local governments for law enforcement and emergency response purposes.

Under the Federal Property Act, State and local governments or eligible nonprofit entities can obtain surplus property at no cost for several authorized public purpose programs. These programs include education, public health, correctional facilities and public airports. A bill that became law in the 105th Congress introduced by the gentleman from California (Mr. CALVERT) added law enforcement and emergency management response purposes to this list. Prior to its enactment, however, the bill was amended to include a December 31, 1999 sunset date for these new public purpose categories.

There are currently more than 22 pending State and local government applications for these purposes nationwide. These new conveyance categories have been invaluable for local governments, for enhancing their law enforcement and fire and rescue training efforts. These new authorities have allowed for an excellent reuse of surplus Federal property that would be lost, at least in the main, if we do not take some step at this point to extend the current opportunity for the Federal authorities to go forward.

Accordingly, H.R. 3187 provides that during the extension the General Services Administration, while not being able to actually convey surplus Federal property at no cost for law enforcement and emergency response purposes, would, however, retain under the GSA at least the ability to consider and approve the applications for transfer during this extension.

Additionally, prior to December 31, the GSA can convey surplus property at no cost for law enforcement and emergency response purposes to qualifying State and local governments, and as such this extension represents an important sense of relief to those local governments that have acted in good faith and stand to lose the receipt of Federal surplus properties at no cost absent our action.

In regard to the underlying bill, S. 335 itself, Mr. Speaker, the House has already discussed and debated this measure extensively on November 2 when we passed it under suspension of the rules by a voice vote. I do not want to reiterate all of the comments made then, as important as they were, but let me say just briefly, with the authorization that we are about to extend once more on this House floor, this body stands to take a great step towards protecting those vulnerable, particularly our senior citizens, who have been preyed upon far too often by unscrupulous sweepstakes mailers.

Those individuals, as few as they may be, who have come where the laws are apparently insufficient and have used deceptive practices to prey upon generally the elderly, but in other measures certainly the infirm, those who are most vulnerable, as I said, and in many cases, bilking them out of thousands, sometimes tens and even hundreds of thousands of dollars of hard-earned money and their life savings.

Today, this House can make again the statement that this Congress will not abide by that kind of activity and we will enact those laws necessary to ensure that future sweepstakes proposals are done under the guise of full disclosure, that deceptive practices, that misleading claims, that facsimile presentations so that checks are made to look like actual government documents, can no longer be continued.

Beyond the efforts that I mentioned of the ranking member and others on the committee, I certainly want to extend a particular thanks to the gentleman from New Jersey (Mr. LOBIONDO), who really brought this House's attention to this issue last year when he began formulating a response. We also owe great thanks to others, including the gentleman from California (Mr. ROGAN); the gentleman from Florida (Mr. MCCOLLUM); and of course the language in this bill is based, in large measure, upon Senator SUSAN COLLINS's comprehensive bipartisan sweepstakes mailing legislation which passed the other body by a 93-to-0 vote.

So, Mr. Speaker, as my colleagues can see, we have drawn from many sources here to craft what I believe is not just a reasonably balanced, but a tremendously effective and most needed piece of legislation. I urge its immediate and overwhelming approval.

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

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

I rise in support of Senate bill 335, the Deceptive Mail Prevention and Enforcement Act. As has been mentioned by my colleague and the majority chairman from the great State of New York, a number of other provisions have been added to this bill. H.R. 807, which would respond I think appropriately to some adjustments needed and retirement opportunities for Federal Reserve Board employees, and H.R. 3187, having to do with the disposition of surplus Federal property.

I would note that under the disposition of Federal property bill, that no property will be able to be disposed of, but that this extension will allow a continuation of applications and appropriate consideration by the GSA of proposals by local governments and nonprofits for usage of those Federal properties.

I would like to say that I think that on the primary bill, the sweepstakes bill, that we have done a very good job, and I would like to compliment the work of the gentleman from California (Mr. CONDIT) on my side of the aisle who was also a prime sponsor, cosponsor of the original legislation. I think that this bill as presented now and as agreed to by the Senate appropriately addresses the need for curtailment of some of the excesses that we have seen in terms of sweepstakes mailings.

I am particularly pleased that adopted and embraced in this bill is my amendment that will provide a private right of action for individuals in relationship to abuses that they face. Again, I am pleased that the committee found it appropriate, the conference committee, to endorse and embrace the amendment that I offered that would allow a private right of action to individual citizens who want to seek redress for excesses that we all have found all too common through parts of this industry.

So I rise in support of S. 335. I would hope that the House would adopt it. I think it is appropriate, and moderate in its approaches, but I think it will get the job done. I do want to thank the majority Chairman, because I think he has helped guide this legislation through, and on this evening we are going to see the result of his hard work.

Mr. Speaker, as the Ranking Minority member of the Subcommittee on the Postal Service, I am pleased to join Chairman MCHUGH in the consideration of S. 335, the Deceptive Mail Prevention and Enforcement Act. In addition, I support the consideration of this measure amended, with the text of the following three bills:

H.R. 170, the Deceptive Mail Prevention and Enforcement Act of 1999, as passed by the House by voice vote on November 2, 1999;

H.R. 807, the Federal Reserve Board Retirement Portability Act, as passed by the House by voice vote on March 16, 1999, and

H.R. 3187, legislation amending the Federal Property and Administrative Services Act of 1949 to temporarily continue authority relating to transfers of certain surplus property to State and local governments for law enforcement and emergency response purposes.

H.R. 170, was introduced on January 6, 1999, by Congressmen LOBIONDO and CONDIT, and reported on October 28, 1999, from the Government Reform Committee, and passed unanimously by the House on November 2, 1999.

While closely mirroring the sweepstakes language contained in S. 335, H.R. 170, adds two very important and critical consumer protection provisions. First, although we provided the Postal Service with subpoena authority to combat sweepstakes fraud, we have limited the scope of subpoena authority to only those provisions of law addressing deceptive mailings, and required the Postal Service to develop procedures for the issuance of subpoenas.

Second, we have added language which I authored, establishing a private right of action to sweepstakes legislation. The private right of action would allow consumers to file suit in state court if a sweepstakes promoter continues to send mailings despite having requested removal from a mailer's list. This is an important enforcement tool particularly with respect to the problem of unwanted mailings. I am pleased to note that it is supported by the National Consumers League, the American Association of Retired Persons and the Direct Marketing Association.

The issue of consumer protection, whether it relates to telemarketing fraud or sweepstakes deception is receiving the attention it deserves. Just last week, the United States Inspection Service joined key government and civic organizations at a national press conference to launch the most ambitious fraud prevention initiative in history. On November 16, 1999, a jumbo postcard containing valuable mail and telemarketing fraud prevention tips will be mailed to every home in America. A portion of the card reads, ''Fraudulent Telemarketers: They've got your number . . . now they want your money!'' I am pleased my colleagues have recognized the importance of consumer protection and voted support a private right of action!

H.R. 807

H.R. 807, the Federal Reserve Board Retirement Portability Act was introduced by Congressman SCARBOROUGH, Chairman of the Subcommittee on Civil Service. It is cosponsored by the Ranking Minority Member of that subcommittee, Congressman CUMMINGS and the Ranking full committee member, Congressman WAXMAN. It was passed unanimously by the House on August 2, 1999.

The legislation would amend title 5, of the U.S. code pertaining to government organization and employees, to provide portability of service credit for persons who leave employment with the Federal Reserve Board to take positions with other Government agencies.

Currently, if an employee of the Federal Reserve Board leaves to work for another federal agency, the employee is required to join the Federal Employees Retirement System (FERS). Under the current FERS statute, time spent working at the Board after 1988, does not count as ''creditable service'' towards a FERS annuity. As a result, these employees will receive smaller pensions upon retirement.

H.R. 807 will correct this problem and also allow current and future Federal employees who transfer to the Board, to transfer the funds from their FERS Thrift Savings Accounts (TSP) to the Federal Reserve Thrift Savings Plan.

In addition, H.R. 807 contains clarifying language ensuring that America's veterans are hired as Career Status appointees. Apparently, the Office of Personnel Management (OPM) interpreted the Veterans' Employment Opportunities Act of 1998, to mean that veterans could be hired for a Federal job as Schedule B appointees, rather than as Career Status appointees. Schedule B appointments are not afforded the same rights and privileges as Career Status employees.

The Veterans' Employment Opportunities Act improves the ability of veterans to compete during the Federal hiring process and extends veterans preference to all branches of the Federal government. Both the Senate and OPM have agreed that language was needed to clarify the original intent of Congress.

H.R. 3187

H.R. 3187, which would amend the Federal Property and Administrative Services Act of 1949 to temporarily continue authority relating to transfers of certain surplus property to State and local governments for law enforcement and emergency response purposes, was introduced by Congressman CALVERT on November 1, 1999.

The Federal Property Act is the basic law regarding the acquisition, utilization, and disposition of federal property. Under the Federal Property Act, real property that is no longer needed by a federal agency is reported to the General Services Administration (GSA) as excess property. Excess property is screened for reuse by other federal agencies. If another federal agency determines that it can use the property, it is reused. If there is no other federal use for the property, it becomes available for disposal as ''surplus'' real property.

Under existing law, eligible state and local government units and certain nonprofit institutions may acquire surplus real property for public benefit purposes at monetary discounts of up to 100%. Public benefit discount conveyance categories include public parks and recreation, historic monuments, public airports, health, education, correctional facilities, highways, and wildlife conservation. H.R. 3187 would establish a temporary public benefit conveyance for law enforcement and emergency services training.

Current authority expires by December 31, 1999, the sunset date for transfers of surplus federal property to state and local government at substantial discounts for law enforcement or emergency management response purposes. Under H.R. 3187, the sunset date would be extended to July 31, 2000. While, no properties can be conveyed under this authority, the GSA can accept, consider, and approve applications for transfer.

Currently, at least 22 jurisdictions around the country have submitted applications to acquire surplus federal property for law enforcement or emergency response purposes. At least three of these jurisdictions have successfully acquired the surplus property for law enforcement and emergency response. The current expiration date for this program would jeopardize existing applications, as well as the filing of new ones.

I am pleased that the House is moving this important measure, S 335, as amended and I urge all my colleagues to vote in support of the bill.

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

Mr. MCHUGH. Mr. Speaker, I yield myself 15 seconds to just briefly respond to the gracious comments of the ranking member by saying, as he noted and as I want very much to make clear, his input and constructive suggestions were very important to making this, I think, a better bill than when we received it.

Mr. Speaker, I am pleased and honored to yield 2 minutes to the gentleman from New Jersey (Mr. LOBIONDO), whose name I mentioned just moments ago, and who is certainly, from my perspective, the individual who first brought this situation to light and, through his hard work, helped articulate a response to the problem for our attention.

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

Mr. LOBIONDO. Mr. Speaker, I rise in very strong support of this legislation. I most importantly want to thank all of my colleagues for joining in to recognize an issue that has impact on so many in our society that have been made vulnerable by dishonest marketing practices. I want to especially thank the gentleman from New York (Mr. MCHUGH) for his leadership. The hearing that we had earlier this year really served to focus and highlight on the problem. I want to thank the gentleman from Philadelphia (Mr. FATTAH) for his efforts, the gentleman from California (Mr. CONDIT) for gaining so many cosponsors on the other side, the gentleman from California (Mr. WAXMAN), and of course the gentleman from Indiana (Mr. BURTON) for all of his help in this area.

When I first went to senior centers and asked how many had received some of these mailings, it was unbelievable the stories that took place, and each one of our districts can have examples

of seniors who have fallen prey and unfortunately in many cases have lost their life savings to these unfortunate marketing practices.

This bill will send a very strong message. We are acting for the people of the United States of America who really deserve our help, the seniors of America. I thank everyone.

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Mr. FATTAH. Mr. Speaker, I yield 1 minute to the gentleman from the great State of Maryland (Mr. CARDIN), who is a member of the Committee on Ways and Means and also is a better golfer than me.

Mr. CARDIN. I am not sure about the last comment, Mr. Speaker, but let me thank my friend, the gentleman from Pennsylvania, for his work on this legislation and all that is involved in bringing forward the sweepstake legislation.

I know in my district I have heard from many of my seniors who have been victimized by believing that they have won a sweepstake, only to send back information, and the only thing that they found out is that it cost them money to buy magazine subscriptions. They have spent thousands of dollars in hopes of winning the sweepstake that they never won.

The Attorney General in my State, Joe Curran, has documented many, many abuses by many, many sweepstake operators. This is true around the Nation.

This is an important bill. I am glad we are able to move it forward. It is going to affect thousands of our constituents in each one of our districts. Hopefully it is going to change the practice of magazine owners or magazine companies in the way that they sell their subscriptions. They have to be more direct with our constituents and let them know that they have not won a sweepstake.

Mr. MCHUGH. Mr. Speaker, I yield 2 minutes to the gentleman from Utah (Mr. HANSEN), a good friend of this bill and a colleague of mine on the Committee on Armed Services.

As I mentioned, Mr. Speaker, there were many who had input into this process, and he is one of the gentlemen who has spoken to me about a very important related issue with respect to billing processes through the mail.

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

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

Mr. Speaker, I think this is an excellent piece of legislation. I commend the gentleman from Pennsylvania (Mr. FATTAH) and the gentleman from New York (Mr. MCHUGH) for the hard work they have done on this.

Mr. Speaker, a lot of people do not realize that at the end of these sweepstakes they enter, what do they do? A lot say they buy something.

I think it is very interesting. I went down to my little town where I live and where the gentlemen hold court that are all retired and have their coffee every morning. They told me, they said, ''I buy this stuff,'' and they talked about a certain magazine, nine of them sitting around the table. ''We all bought this magazine popular in the Second World War. We paid it immediately.''

And then what happened? They kept billing them and billing them and billing them, and they sent their canceled check and nothing would happen. This is an outfit out of Florida, and one time after another.

I started checking into it. I said, well, I think you folks do not understand it. I put one in, paid mine, and immediately they billed me. I paid it, and I got billed five times in a row. I finally had to call them up to get them off of it. I tried that a number of other places. I tried it with one on home repairs, and they billed me and billed me, and finally turned it over to a collection agency.

Then I looked at my father-in-law who is 89 years old. I pay all his bills for him. He paid one bill 10 times because he did not realize he had been billed all these times. I commend the gentleman for what he is doing. I would point out, I think there is a predator billing problem going on in America right now. It has an a lot to do with these magazines and all this other paraphernalia they sell through the mail.

There is no way on Earth these people get a response. They send a letter, a copy of their canceled check, and nobody ever responds. There ought to be a way, Mr. Speaker, and maybe it is to the point that this organization called the U.S. House and Senate should do something about it, to take care of the people who are getting bilked by these people.

I thank the gentleman, and I support this legislation. I wanted to add that one further note.

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

Mr. Speaker, in conclusion, I would like to say that the first amendment that I passed on the floor of this House had to do with going after telemarketing fraud. This sweepstakes issue is just another, I think, head of the same animal.

It is of note that just last week the United States Postal Service, along with key government and civic leaders, had a press conference to announce a nationwide effort to go after telemarketing fraud in a very serious way, and I just want to say that I think the House this evening collaborates in that effort by the passage of this very important piece of legislation.

I thank my colleague, the gentleman from New York (Mr. MCHUGH), someone who I have had the pleasure to work with for a few years on this committee, and we have gotten a lot done.

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

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

As we have heard today, this is a good bill. It needs to be acted on now, so let us do that.

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

The SPEAKER pro tempore (Mr. WALDEN of Oregon). The question is on the motion offered by the gentleman from New York (Mr. MCHUGH) that the House suspend the rules and pass the Senate bill, S. 335, 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.

GENERAL LEAVE

Mr. MCHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 335, as amended, the legislation just passed.

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

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has concluded on all motions to suspend the rules.

Pursuant to clause 8 of rule XX, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which that motion was entertained.

Votes will be taken in the following order: House Concurrent Resolution 223, by the yeas and nays; and the conference report on H.R. 1554, by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

SENSE OF CONGRESS REGARDING FREEDOM DAY

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, House Concurrent Resolution 223.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. GILMAN) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 223, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 417, nays 0, not voting 16, as follows:

[Roll No. 580]

YEAS—417

Abercrombie
Ackerman
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
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kucinich
Kuykendall
LaFalce
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
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
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Ose
Owens
Oxley
Packard
Pallone
Pastor
Paul
Payne
Pease
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Salmon
Sanchez
Sanders
Sandlin
Sanford
Sawyer
Saxton
Schaffer
Schakowsky
Scott
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Simpson
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Snyder
Souder
Spence
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
Towns
Traficant
Turner
Udall (CO)
Udall (NM)
Upton
Velazquez
Vento
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins
Watt (NC)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—16

Chenoweth-Hage
Deal
Edwards
Gephardt
Hastings (FL)
Hoyer
Martinez
Matsui
McDermott
Pascrell
Scarborough
Shuster
Smith (TX)
Spratt
Wexler
Young (FL)

□ 1942

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Pursuant to clause 8 of rule XX, the Chair announces that he will reduce to 5 minutes the minimum time for electronic voting on each additional motion to suspend the rules on which the Chair has postponed further proceedings.

CONFERENCE REPORT ON H.R. 1554, INTELLECTUAL PROPERTY AND COMMUNICATONS OMNIBUS REFORM ACT OF 1999

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the conference report on the bill, H.R. 1554.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ARMEY) that the House suspend the rules and agree to the conference report on the bill, H.R. 1554, on which the yeas and nays were ordered.

This will be a 5-minute vote

The vote was taken by electronic device, and there were—yeas 411, nays 8, not voting 14, as follows:

[Roll No. 581]

YEAS—411

Abercrombie
Ackerman
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
Clay
Clayton
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Conyers
Cook
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crowley
Cubin
Cummings
Cunningham
Danner
Davis (FL)
Davis (IL)
Davis (VA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Ewing
Farr
Fattah
Filner
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Frank (MA)
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gibbons
Gilchrest
Gilman
Gonzalez
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Inslee
Isakson
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kasich
Kelly
Kennedy
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kolbe
Kuykendall
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McDermott
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Metcalf
Mica
Millender-McDonald
Miller (FL)
Miller, Gary
Miller, George
Minge
Mink

Moakley	Rivers	Stupak
Mollohan	Rodriguez	Sununu
Moore	Roemer	Sweeney
Moran (KS)	Rogan	Talent
Moran (VA)	Rogers	Tanner
Morella	Rohrabacher	Tauscher
Murtha	Ros-Lehtinen	Tauzin
Myrick	Rothman	Taylor (MS)
Nadler	Roukema	Taylor (NC)
Napolitano	Roybal-Allard	Terry
Neal	Royce	Thomas
Nethercutt	Rush	Thompson (CA)
Ney	Ryan (WI)	Thompson (MS)
Northup	Ryun (KS)	Thornberry
Norwood	Sabo	Thune
Nussle	Salmon	Thurman
Oberstar	Sanchez	Tiahrt
Obey	Sanders	Tierney
Olver	Sandlin	Toomey
Ortiz	Sawyer	Towns
Ose	Saxton	Traficant
Owens	Schaffer	Turner
Oxley	Schakowsky	Udall (CO)
Packard	Scott	Udall (NM)
Pallone	Sensenbrenner	Upton
Pastor	Serrano	Velazquez
Payne	Sessions	Visclosky
Pease	Shadegg	Vitter
Pelosi	Shaw	Walden
Peterson (MN)	Shays	Walsh
Peterson (PA)	Sherman	Wamp
Petri	Sherwood	Watkins
Phelps	Shimkus	Watt (NC)
Pickering	Shows	Watts (OK)
Pickett	Simpson	Waxman
Pitts	Sisisky	Weiner
Pombo	Skeen	Weldon (FL)
Pomeroy	Skelton	Weldon (PA)
Porter	Slaughter	Weller
Portman	Smith (MI)	Weygand
Price (NC)	Smith (NJ)	Whitfield
Pryce (OH)	Smith (WA)	Wicker
Quinn	Snyder	Wilson
Radanovich	Souder	Wise
Rahall	Spence	Wolf
Ramstad	Stabenow	Woolsey
Rangel	Stark	Wu
Regula	Stearns	Wynn
Reyes	Stenholm	Young (AK)
Reynolds	Strickland	Young (FL)
Riley	Stump	

NAYS—8

Kaptur	Paul	Vento
Kucinich	Sanford	Waters
LaFalce	Tancredo	

NOT VOTING—14

Chenoweth-Hage	Lipinski	Shuster
Deal	Martinez	Smith (TX)
Edwards	Matsui	Spratt
Gephardt	Pascrell	Wexler
Gillmor	Scarborough	

□ 1952

So (two-thirds having voted in favor thereof) the rules were suspended and the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

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

Mr. BONIOR. Mr. Speaker, I rise for the purposes of inquiring from the Majority Leader the schedule for the remainder of the evening and the rest of the week.

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

Mr. ARMEY. Mr. Speaker, I appreciate the gentleman taking this time. Mr. Speaker, as my colleagues know, we are in that part of the year where we are all working in different rooms, in different projects, trying to come to agreement on different matters.

At this point in the evening, what I am going to suggest we do is have the body retire to some special orders for a while, some discussion. We will have a few minutes to sort things out, at which time we can get back in touch with the Members, either by announcement of the floor or through the whip organizations.

We do anticipate that we will in very short order be able to resume work, having more votes on issues related to the appropriations and budget cycle. But it is just one of these times where we sort of have to fall back, regroup, and assess things, and make sure we have precise information to exchange between the two sides so we can reach agreement to proceed.

If the body would indulge us in that regard, we would be back in touch with Members, who we would ask to stay close to an information source, I am sure within the next 30 minutes at the outset.

Mr. BONIOR. Mr. Speaker, let me just say to the gentleman from Texas that we understand how difficult at the end of a session it is to put the various pieces together and to wrap things up. But we also understand the need to utilize the time of the membership in the best possible way.

I was wondering if not, in a cooperative spirit, if we, indeed, are going to go to a CR that may, in fact, take us into next week, that we could do that at a relatively early hour this evening so Members could finish their business and leave and go home and ready and fresh for tomorrow's work. A lot of my colleague are asking about the action of even rolling the vote until tomorrow.

Mr. Speaker, I yield to the gentleman from Texas (Mr. ARMEY) for a response.

Mr. ARMEY. Mr. Speaker, again, I thank the gentleman from Michigan for yielding to me. I think at this point in the evening, we need to reserve the opportunity for Members to have one or more recorded votes this evening on important legislative matters. If in fact that does not come to pass, I will communicate that as quickly as can I to the Members.

I do understand we have families, and we would like to be home or with our families. I can promise the Members that I will get this sorted out as quickly as possible and advise the Members.

We will be here working tomorrow. We will have votes tomorrow. Even as we proceed during the day tomorrow, I am sure there will be opportunities where we will just have to take a moment, sort things out, make sure we have the appropriate matters in the appropriate time sequencing, and make similar announcements to the body.

Mr. BONIOR. Mr. Speaker, when the gentleman from Texas spoke earlier, he mentioned 30 minutes as I recall; is that correct.

Mr. ARMEY. Mr. Speaker, again, if the gentleman will yield, as soon as I leave the floor, I will get to the key people with whom we have to consult, get the information sorted out, set the plan for the rest of the night, and then make that announcement to the Members.

Mr. BONIOR. Mr. Speaker, can the gentleman from Texas give me the prognosis for next week, or is that all contingent upon the discussions the gentleman has just referred to?

Mr. ARMEY. Mr. Speaker, if the gentleman will yield, as the song from My Fair Lady goes, ''with a little bit of luck'', we will not be here. Other than that, we would just have to assess things up, and that would be one of those announcements that I could give with some degree of clarity and reliability tomorrow.

Mr. BONIOR. Mr. Speaker, I yield to the gentleman from Wisconsin (Mr. OBEY).

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

Mr. Speaker, I would just like to make clear I have been told by the majority side on the Committee on Appropriations that there is a possibility that the committee will be asked to go to the Committee on Rules tonight to get a rule under which we could then consider the continuing resolution.

I would like to make it clear that we see no reason to tie all Members up for the remainder of the evening. If what is being contemplated is a simple, straight continuing resolution with no funny business, we are perfectly happy to provide unanimous consent so that we can take it up without wasting Member's time, and I would think we could voice it very quickly.

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

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, obviously the body appreciates the fine generous offer from the gentleman from Wisconsin (Mr. OBEY). I want to give the gentleman from Wisconsin every assurance that there will be a straight continuing resolution with no funny business. But it is just one of the things I want to be very clear about before I stand before my colleagues and say, yes, that is the request we make of them.

So I want to be able to make the precise request for my colleagues' agreement that we can define through the appropriate discussions with our colleagues. That should be done in just a few minutes.

Mr. BONIOR. Mr. Speaker, we vote against any funny business on our side, and we hope the gentleman will concur.

PERMISSION TO CONSIDER SPECIAL ORDER IN MEMORY OF THE LATE HONORABLE GEORGE E. BROWN FIRST

Mr. ARMEY. Mr. Speaker, as we begin some special orders in this interim planning period, I am advised that there are members of the family of the former Member, George Brown,

in attendance to the body at this very moment. We have a host of Members who would like to take some time to pay their respects to Mr. Brown. They are listed for a special order this evening.

Mr. Speaker, on behalf of the memory of George Brown, I ask unanimous consent that those Members who would like to have this discussion proceed with the proviso that they would yield for me to make any announcements or for us to take up any work that we would have to do later in the evening.

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

There was no objection.

□ 2000

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2907

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to remove as cosponsor of my bill, H.R. 2907, the gentleman from Florida (Mr. BILIRAKIS).

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Is there objection to the request of the gentlewoman from California?

There was no objection.

ANNOUNCEMENT OF SUSPENSIONS TO BE CONSIDERED ON WEDNESDAY, NOVEMBER 10, 1999

Mr. LAZIO. Mr. Speaker, pursuant to House Resolution 353, I rise to announce the following suspensions to be considered tomorrow.

H. Res. 41, Honoring American Military Women for Their Service in World War II Resolution;

H.R. 1869, Stalking Prevention and Victim Protection Act of 1999;

H.R. 2336, the United States Marshals Service Improvement Act of 1999;

H.R. 2442, a very important piece of legislation, the Wartime Violation of Italian American Civil Liberties Act;

H. Con. Res. 122, recognizing the United States Border Patrol's 75 years of service since its founding;

H.R. 3234, to exempt certain reports from automatic elimination and sunset pursuant to the Federal Reports and Elimination and Sunset Act of 1995;

And, finally, Mr. Speaker, H.R. 2454, the Arctic Tundra Habitat Emergency Conservation Act.

Those are the suspensions that will be considered tomorrow, Mr. Speaker.

PERSONAL EXPLANATION

Mr. KANJORSKI. Mr. Speaker, on November 4 and November 5, 1999, I was away from Washington on official business and unable to vote on several matters. Had I been present on rollcall 563, I would have voted ''yea''; on rollcall 564, I would have voted ''nay''; on rollcall 565, I would have voted ''yea''; on rollcalls 565, 567, and 568, I would have voted ''nay''; on rollcall 569, I would have voted ''yea''; and on rollcalls 571, 572, and 573, I would have voted ''yea''.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2000

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that it be in order immediately to consider in the House the joint resolution (H.J. Res. 78) making further continuing appropriations for the fiscal year 2000, and for other purposes; that the joint resolution be considered as read for amendment; that the joint resolution be debatable for 1 hour, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and that the previous question be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. Under the Speaker's guidelines, the Chair is unable to entertain the gentleman's request at this time.

FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2000

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that it be in order immediately to consider in the House the joint resolution (H.J. Res. 78) making further continuing appropriations for the fiscal year 2000, and for other purposes; that the joint resolution be considered as read for amendment; that the joint resolution be debatable for 1 hour, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and that the previous question be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit.

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, pursuant to the previous order of the House, I call up the joint resolution (H. J. Res 78) making further continuing appropriations for the fiscal year 2000, and for other purposes, for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 78 is as follows:

H.J. RES. 78

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 106–62 is further amended by striking ''November 10, 1999'' in section 1069c) and inserting in lieu thereof ''November 17, 1999'', and by striking ''$288,903,248'' in section 119 and inserting in lieu thereof ''$346,483,754.'' Public Law 106–46 is amended by striking ''November 10, 1999'' and inserting in lieu thereof ''November 17, 1999''.

The SPEAKER pro tempore. Pursuant to the order of the House, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will be recognized for 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 in which to revise and extend their remarks on H.J. Res. 78, 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 may consume.

Mr. Speaker, the current continuing resolution expires tomorrow night. While we had planned to have all appropriations action completed by tomorrow, that will not be possible because of some ongoing negotiations with the administration. We will need an extension into next week because of the Veterans Day holiday.

H. J. Res. 78 would continue operations for the agencies in the five remaining bills until November 17, and I would urge our Members to support it.

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

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

Mr. Speaker, I do not think there is any purpose in dragging this out tonight. This is a simple extension until next Wednesday.

I think Members need to have some understanding of what remaining differences are out there, because I think there is a vast misperception about exactly where the conferees are on these issues. As I see it, on the interior appropriations bill, we have made some progress with respect to language items. There are still a number of important language items that have not been resolved, a number of the riders, and there is also at least one major dollar issue which still is to be resolved, and it is the biggest dollar problem in the bill.

□ 2015

With respect to State, Justice, Commerce, virtually all the dollar disagreements have been resolved. But there are still major differences with respect to language and riders. And again, that represents the items that remain represent major impediments to final agreement.

With respect to the Labor, Health, Education bill, we were in conference once today this morning. We went into conference the second time, or were invited to come into conference this afternoon. We went to the Senate in order to participate in that conference. While we were sitting in the conference room waiting for the conference to start, the majority conferees on the Senate side in charge of the conference were busy holding a press conference

denouncing the actions of those in the conference who represented the White House; and so, we wound up, instead of having a conference, having a press conference while we awaited the possibility of having a conference.

So we made no further progress on that bill since about noon.

That means I think that the individual Members of this place need to know what is going to happen with their schedules.

I would urge the majority party leadership to recognize what the scheduling reality is and to recognize that we either have to have maximum flexibility in reaching an agreement or else we need to have maximum recognition of reality on a timetable so that Members who are not participating in the conference do not have to hang around here waiting for things to happen that are not likely to happen.

I would hope that we could continue discussions and reach agreement on the items so that we do not have another round of recriminations before we finally get out of here.

It seems to me that if we could have more time spent discussing the differences and less time spent in shenanigans, we would all be a whole lot better off.

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

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume just briefly to close and suggest that we are hoping that, as the negotiators continue their work during tomorrow and Thursday and Friday and Saturday and Sunday, that by Monday we will have workable packages that are agreed upon.

But we are at the final stage of the negotiations. Everyone who has ever negotiated knows that the most difficult decisions to agree on are put off to the end. Well, now we are at the end and we are dealing with the most difficult decisions.

As the gentleman from Wisconsin (Mr. OBEY) has pointed out, we have had very spirited negotiations most of the day today. We were here late last night. We were here over the weekend and we are moving as rapidly as we can. But we have some very strong differences of opinions between the Congress and even between the House and the Senate, as well as the administration.

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

Mr. YOUNG of Florida. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, I appreciate the gentleman yielding.

Mr. Speaker, I would just like to make one additional observation. I have seen in those conferences at least two people who are crucial to the conference falling asleep in the middle of the conferences. That is because they are bone tired.

I would suggest that the best thing we could do is stop the rhetoric tonight, pass this baby, go on home and get a good night's sleep, and show up tomorrow morning ready to do some business with each other for real.

Mr. YOUNG of Florida. Mr. Speaker, reclaiming my time, that is what I was going to say when the gentleman asked me to yield.

Mr. Speaker, I would hope that we would pass this continuing resolution expeditiously and let us get back to the bargaining table with the administration.

Mr. LEWIS of California. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Speaker, I appreciate my colleague yielding.

The spirit that is being presented here is very much to be followed by a special order recognizing the service of our colleague, the gentleman from California (George Brown), so that Members would know that.

In the meantime, I very much appreciate the communication between both sides this evening.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for his comments.

Mr. Speaker, I yield back the balance of my time, and I urge an expeditious aye vote on the resolution.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Pursuant to the order of the House, 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 a third time, and passed, and a motion to reconsider was laid on the table.

COMMUNICATION FROM STAFF ASSISTANT OF HON. DALE E. KILDEE, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Lucretia Presnall, Staff Assistant of the Honorable Dale E. Kildee, Member of Congress:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 2, 1999.

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

DEAR MR. SPEAKER: This is to formally notify you, pursuant to rule VIII of the Rules of the House of Representatives, that I have been served with a trial subpoena issued by the United States District Court for the Eastern District of Michigan in the case of *U.S.* v. *Fayzakov*, No. 99–CR–50015.

After consultation with the Office of General Counsel, I have determined that compliance with the subpoena is consistent with the precedents and privileges of the House.

Sincerely,

LUCRETIA PRESNALL,
Staff Assistant.

CONTINUATION OF IRAN NATIONAL EMERGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 106–156)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency declared in 1979 is to continue in effect beyond November 14, 1999, to the *Federal Register* for publication. Similar notices have been sent annually to the Congress and published in the *Federal Register* since November 12, 1980. The most recent notice appeared in the *Federal Register* on November 12, 1998. This emergency is separate from that declared with respect to Iran on March 15, 1995, in Executive Order 12957.

The crisis between the United States and Iran that began in 1979 has not been fully resolved. The international tribunal established to adjudicate claims of the United States and U.S. nationals against Iran and of the Iranian government and Iranian nationals against the United States continues to function, and normalization of commercial and diplomatic relations between the United States and Iran has not been achieved. On March 15, 1995, I declared a separate national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act and imposed separate sanctions. By Executive Order 12959 of May 6, 1995, these sanctions were significantly augmented, and by Executive Order 13059 of August 19, 1997, the sanctions imposed in 1995 were further clarified. In these circumstances, I have determined that it is necessary to maintain in force the broad authorities that are in place by virtue of the November 14, 1979, declaration of emergency, including the authority to block certain property of the Government of Iran, and which are needed in the process of implementing the January 1981 agreements with Iran.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 5, 1999.*

PERIODIC REPORT ON NATIONAL EMERGENCY WITH RESPECT TO SUDAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 106–157)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c) and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 5, 1999.*

TRIBUTE TO A.M. ROSENTHAL

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

Mr. WOLF. Mr. Speaker, I rise today to express our appreciation for the service that has been given to our country and to the world by A.M. Rosenthal.

This past Friday was Mr. Rosenthal's last day at the New York Times. Mr. Rosenthal had a distinguished career at the New York Times beginning his tenure at the Times at age 21. He left his imprimatur on journalism and on the world through his opinion columns that exposed many cases of human rights violations and religious persecution.

Mr. Rosenthal was not afraid to speak truth to tyranny. He wrote unabashedly and boldly for those who suffered under egregious and appalling situations, while others remained silent.

Mr. Rosenthal addressed a wide spectrum of tyranny and never backed down. His wise words were the finest examples of speaking truth to abuses of power. His column spoke truth for the voiceless, freedom and liberty for the oppressed. His pen was truly mightier than the sword. Natan Sharansky, Harry Wu, Andrei Sakharov, and countless brave others have him to thank for stirring world opinion into forcing their freedom.

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

[From the New York Times, Nov. 5, 1999]

WRITER-EDITOR ENDS A 55-YEAR RUN

A FINAL COLUMN FOR THE TIMES, BUT DON'T SAY RETIREMENT

(By Clyde Haberman)

After 55 years as a reporter, foreign correspondent, editor and columnist, A.M. Rosenthal spent his last working day at The New York times yesterday packing up his memories the only way he knew how: by writing about them.

Mr. Rosenthal ended a run of nearly 13 years on the newspaper's Op-Ed page with a column that appears today, looking back on a career that made him one of the most influential figures in American journalism in the last half of this century.

''I've seen happier days,'' he acknowledged in an interview.

But there was one word that he said he would never use to describe his new status. Don't dare to whisper ''retirement,'' he said, recalling what Barbara Walters, an old friend, told him a few weeks ago when it became clear that his weekly column, ''On My Mind,'' was near an end.

''She said to me, 'But Abe, you're starting fresh,'" he said, ''And I suddenly realized, of course I was. Then I realized that I'm not going alone. I'm taking my head with me. I'm going to stay alive intellectually.''

Mr. Rosenthal, 77 and universally known as Abe, said he intended to continue ''writing journalistically,'' though at this point he had no specific plans. ''I want to remain a columnist,'' he said.

There was an unmistakable end-of-an-era feel to the announcement yesterday that Mr. Rosenthal would leave a newspaper that, family aside, had been his life. Indeed, during his 17 years as its chief editor, until he stepped down in 1986 with the title of executive editor, ''Rosenthal'' and ''The Times'' were pretty much synonyms for many readers—often, though not always, with their approval.

Abraham Michael Rosenthal brought raw intelligence and enormous passion to the job, qualities that were apparent from his first days at The Times, as a part-time campus correspondent at City College in the 1940's. The college was tuition-free in those days, and a good thing, too, said Mr. Rosenthal, who was born in Canada and grew up in poverty in the Bronx. ''Free tuition was more than I could afford,'' he said yesterday.

After becoming a full-time reporter in 1944, he covered the fledgling United Nations. Then, from 1954 to 1963, he was a foreign correspondent, based in India, Poland and Japan. Covering India was a personal high point. But it was in Poland, whose Communist rulers expelled him in 1959, that he won a Pulitzer Prize.

It was also where he wrote an article for The New York Times Magazine that, among the thousands he produced, contained a passage that some quote to this day. He had been to the Nazi death camp at Auschwitz.

''And so,'' he wrote, ''there is no news to report from Auschwitz. There is merely the compulsion to write something about it, a compulsion that grows out of a restless feeling that to have visited Auschwitz and then turned away without having said or written anything would be a most grievous act of discourtesy to those who died there.''

The passion in that paragraph carried into his time as editor.

On his watch, in 1971, The Times published the so-called Pentagon Papers, a secret government history of the Vietnam War. That led to a landmark Supreme Court decision upholding the primacy of the press over government attempts to impose ''prior restraint'' on what it may print.

Under Mr. Rosenthal, the once ponderous Times became a far livelier paper. Major innovations were quickly copied at other newspapers, notably special sections on lifestyles and science that were introduced in the 1970's. But his biggest accomplishment, in his view, was keeping ''the paper straight,'' which meant keeping the news columns free of writing that he felt stumbled into editorial judgment.

On that score, he did not lack for critics. With his passion came dark moods and a soaring temper. Mr. Rosenthal made many journalists' careers. But he also undid some. Even now, years after his editorship, his defenders and his attackers talk about him with equal vehemence.

Mr. Rosenthal agreed yesterday that people tended not to be neutral about him. Many will be saddened by his departure from The Times. ''And,'' he said, ''there'll be people dancing.''

His column on the Op-Ed page, which first appeared on Jan. 6, 1987, often stirred similar emotions among readers. Over the years, recurring themes emerged: Israel's security needs, human rights violations around the world, this country's uphill war against drugs.

He focused on those themes once more for his final column. Then he turned to the mundane task of packing up mementos as well as memories. Off the wall came a framed government document from the 1950's attesting that the Canadian had become an American. It was, he said with a cough to beat back rising emotions, among his most valuable possessions.

[From the New York Times, Nov. 5, 1999]

A.M. ROSENTHAL OF THE NEW YORK TIMES

The departure of a valued colleague from The New York Times is not, as a rule, occasion for editorial comment. But the appearance today of A.M. Rosenthal's last column on the Op-Ed page requires an exception. Mr. Rosenthal's life and that of this newspaper have been braided together over a remarkable span—from World War II to the turning of the millennium. His talent and passionate ambition carried him on a personal journey from City College correspondent to executive editor, and his equally passionate devotion to quality journalism made him one of the principal architects of the modern New York Times.

Abe Rosenthal began his career at The Times as a 21-year-old cub reporter scratching for space in the metropolitan report, and he ended it as an Op-Ed page columnist noted for his commitment to political and religious freedom. In between he served as a correspondent at the United Nations and was based in three foreign countries winning a Pulitzer Price in 1960 for his reporting from Poland. He came home in 1963 to be metropolitan editor. In that role and in higher positions, he became a tireless advocate of opening the paper to the kind of vigorous writing and deep reporting that characterized his own work. As managing editor and executive editor, Abe Rosenthal was in charge of The Times's news operations for a total of 17 years.

Of his many contributions as an editor, two immediately come to mind. One was his role in the publication of the Pentagon Papers, the official documents tracing a quarter-century of missteps that entangled America in the Vietnam War. Though hardly alone among Times editors, Mr. Rosenthal was instrumental in mustering the arguments that led to the decision by our then publisher, Arthur Ochs Sulzberger, to publish the archive. That fateful decision helped illustrate the futile duplicity of American policy in Vietnam, strengthened the press's First Amendment guarantees and reinforced The Times's reputation as a guardian of the public interest.

The second achievement, more institutional in nature, was Mr. Rosenthal's central role in transforming The times from a two-section to a four-section newspaper with the introduction of a separate business section and new themed sections like SportsMonday, Weekend and Science Times. Though a journalist of the old school, Abe Rosenthal grasped that such features were necessary to broaden the paper's universe of readers. He insisted only that the writing, editing and

article selection measure up to The Times's traditional standards.

By his own admission, Abe Rosenthal could be ferocious in his pursuit and enforcement of those standards. Sometimes, indeed, debate about his management style competed for attention with his journalistic achievements. But the scale of this man's editorial accomplishments has come more fully into focus since he left the newsroom in 1986. It is now clear that he seeded the place with talent and helped ensure that future generations of Times writers and editors would hew to the principles of quality journalism.

Born in Canada, Mr. Rosenthal developed a deep love for New York City and a fierce affection for the democratic values and civil liberties of his adopted country. For the last 13 years, his lifelong interest in foreign affairs and his compassion for victims of political, ethnic or religious oppression in Tibet, China, Iran, Africa and Eastern Europe formed the spine of his Op-Ed columns. His strong, individualistic views and his bedrock journalistic convictions have informed his work as reporter, editor and columnist. His voice will continue to be a force on the issues that engaged him. And his commitment to journalism as an essential element in a democratic society will abide as part of the living heritage of the newspaper he loved and served for more than 55 years.

[From the New York Times, Nov. 5, 1999]

ON MY MIND: A.M. ROSENTHAL

PLEASE READ THIS COLUMN!

On Jan. 6, 1987, when The New York Times printed my first column, the headline I had written was: ''Please Read This Column!'' It was not just one journalist's message of the day, but every writer's prayer—come know me.

Sometimes I wanted to use it again. But I was smitten by seizures of modesty and decided twice might be a bit showy. Now I have the personal and journalistic excuse to set it down one more time.

This is the last column I will write for The Times and my last working day on the paper. I have no intention of stopping writing, journalistically or otherwise. And I am buoyed by the knowledge that I will be starting over.

Still, who could work his entire journalistic career—so far—for one paper and not leave with sadnesses, particularly when the paper is The Times? Our beloved, proud New York Times—ours, not mine or theirs, or yours, but ours, created by the talents and endeavor of its staff, the faithfulness of the publishing family and, as much as anything else, by the ethics and standards of its readers and their hunger for ever more information, of a range without limit.

Arrive in a foreign capital for the first time, call a government minister and give just your name. Ensues iciness. But add ''of the New York Times,'' and you expect to be invited right over and usually are; nice.

''Our proud New York Times''—sounds arrogant and is a little, why not? But the pride is individual as well as institutional. For members of the staff, news and business, the pride is in being important to the world's best paper—and hear?—and being able to stretch its creative reach. And there is pride knowing that even if we are not always honest enough with ourselves to achieve fairness, that is what we promise the readers, and the standard to which they must hold us.

I used to tell new reporters: The Times is far more flexible in writing styles than you might think, so don't button up your vest and go all stiff on us. But when it comes to the foundation—fairness—don't fool around with it, or we will come down on you.

Journalists often have to hurt people, just by reporting the facts. But they do not have to cause unnecessary cruelty, to run their rings across anybody's face for the pleasure of it—and that goes for critics, too.

When you finish a story, I would say, read it, substitute your name for the subject's. If you say, well, it would make me miserable, make my wife cry, but it has no innuendo, no unattributed pejorative remarks, no slap in the face for joy of slapping, it is news, not gutter gossip, and as a reporter I know the writer was fair, then give it to the copy desk. If not, try again—we don't want to be your cop.

Sometimes I have a nightmare that on a certain Wednesday—why Wednesday I don't know—The Times disappeared forever. I wake trembling; I know this paper could never be recreated. I will never tremble for the loss of any publication that has no enforced ethic of fairness.

Starting fresh—the idea frightened me. Then I realized I was not going alone. I would take my brain and decades of newspapering with me. And I understood many of us had done that on the paper—moving from one career to another.

First I was a stringer from City College, my most important career move. It got me inside a real paper and paid real money. Twelve dollars a week. at a time when City's free tuition was more than I could afford.

My second career was as a reporter in New York, with a police press pass, which cops were forever telling me to shove in my ear.

I got a two-week assignment at the brand-new United Nations, and stayed eight years, until got what I lusted for—a foreign post.

I served The Times in Communist Poland, for the first time encountering the suffocating intellectual blanket that is Communism's great weapon. In due time I was thrown out.

But mostly it was Asia. The four years in India excited me then and forever. Rosenthal, King of the Khyber Pass!

After nine years as a foreign correspondent, somebody decided I was too happy in Tokyo and nagged me into going home to be an editor. At first I did not like it, but I came to enjoy editing—once I became the top editor, Rosenthal, King of the Hill!

When I stepped down from that job, I started all over again as a Times Op-Ed columnist, paid to express my own opinions. If I had done that as a reporter or editor dealing with the news, I would have broken readers' trust that the news would be written and played straight.

Straight does not mean dull. It means straight. If you don't know what that means, you don't belong on this paper. Clear?

As a columnist, I discovered that there were passions in me I had not been aware of, lying under the smatterings of knowledge about everything that I had to collect as executive editor—including hockey and debentures, for heaven's sake.

Mostly the passions had to do with human rights, violations of—like African women having their genitals mutilated to keep them virgin, and Chinese and Tibetan political prisoners screaming their throats raw.

I wrote with anger at drug legitimizers and rationalizers, helping make criminals and destroying young minds, all the while with nauseating sanctimony.

As a correspondent, it was the Arab states, not Israel, that I wanted to cover. But they did not welcome resident Jewish correspondents. As a columnist, I felt fear for the whittling away of Israel strength by the Israelis, and still do.

I wrote about the persecution of Christians in China. When people, in astonishment, asked why, I replied, in astonishment, because it is happening, because the world, including American and European Christians and Jews, pays almost no attention, and that plain disgusts me.

The lassitude about Chinese Communist brutalities is part of the most nasty American reality of this past half-century. Never before have the U.S. government, business and public been willing, eager really, to praise and enrich tyranny, to crawl before it, to endanger our martial technology—and all of the hope (vain) of trade profit.

America is going through plump times. But economic strength is making us weaker in head and soul. We accept back without penalty a president who demeaned himself and us. We rain money on a Politburo that must rule by terror lest it lose its collective head.

I cannot promise to change all that. But I can say that I will keep trying and that I thank God for (a) making me an American citizen, (b) giving me that college-boy job on The Times, and (c) handing me the opportunity to make other columnists kick themselves when they see what I am writing, in this fresh start of my life.

BOSTON UNIVERSITY,
Boston, MA, January 14, 1999.

THE PULITZER PRIZE BOARD,
Columbia University, New York, NY.

DEAR SIRS: we respectfully nominate A.M Rosenthal for the 1998 Pultizer Prize for commentary, based on his columns dealing with the persecution of religious minorities around the world. We believe that such an award would be particularly fitting, coming as it would on the 50th anniversary of the Universal Declaration of Human Rights.

The Rosenthal columns were the first, remain the dominate, and until recently, were the singular media voices on the subject of worldwide religious persecution. They were instrumental in redefining the human rights agenda to include the interests of religious believers in general and vulnerable Christian communities in particular. They energized a broad interfaith movement previously lacking in knowledge about or confidence in their ability to speak up for the rights of persecuted religious minorities. They built bridges of trust between religious and secular human rights organizations, between Tibetan Buddhist, Baha'i, Jewish, Catholic, Evangelical and Mainline Protestant groups. They powerfully expanded the reach of America's human rights policies.

The Rosenthal columns or religious persecution began in 1997, but their culminating impact occurred during this year. The first and last 1998 columns, ''Feeling Clean Again'' (February 6), ''Gift for Americans'' (November 27), and ''Keeping the Spotlight'' (December 25), broadly validated the moral and political premises of the movement against religious persecution, and defined its agenda. Such 1998 Rosenthal columns as ''A Tour of China'' (March 13) and ''Judgment of Beijing'' (July 3), forced the U.S.-China summit meeting to deal with the persecution of house church Christians and Tibetan Buddhists to a far greater degree than either government wished. The outrage expressed by Mr. Rosenthal in his May 1 column, ''Clinton's Fudge Factory,'' leveraged the story of New York Times correspondent Elaine Sciolino into a reshaped, reenergized political debate over religious persecution legislation. See also his April 24 column, ''Clinton Policies Explained.'' Mr. Rosenthal's May 12 column, ''The Simple Question,'' framed the House debate on the Freedom From Religious Persecution Act and played an instrumental role in the overwhelming House vote that adopted it. His August 7 and October 2 columns, ''Freedom From Religious Persecution: The Struggle Continues'' and ''They Will Find Out,'' played key roles in rescuing the Senate version of the legislation from a demise that

had been confidently predicted by the Administration and the business community.

We respectfully submit that the Rosenthal columns on religious persecution merit a Pulitzer Prize for Commentary if only because they broke new ground on an important subject, and did so with accuracy, forcefulness and passion. We also believe that related and perhaps even stronger grounds exist for the award to be granted.

First, the Rosenthal columns enhanced the institutional credibility of the press with many religious believers who had seen the mainline press as patronizing if not hostile. They were read and cherished by millions, not only in the New York Times, but also through mass recirculation in denominational newsletters, religious broadcasts and actual worship services. They educated many to the power and virtue of a free press.

Next, the columns played a central role in the enactment of major, potentially historic legislation. As nothing else, they galvanized and sustained the remarkable interfaith movement that supported the legislation, and ensured Congressional attentiveness to the issue. It can be categorically stated: Without the Rosenthal columns, the International Religious Freedom Act of 1998 would not have become law.

Finally, we believe that the Rosenthal columns legitimated today's increasing coverage of anti-Christian persecutions in countries like India, Pakistan and Indonesia, and generated new perspectives on the coverage of countries ranging from China to Egypt, from Sudan to Vietnam. Until the Rosenthal columns, the notion of Christians as victims rather than victimizers didn't seem quite plausible to many editors and reporters. The fact that it now does is a powerful tribute to what the columns have done.

Seldom in our experience has a single voice been so instrumental in raising public consciousness on an issue of such major importance. The passion and integrity of the Rosenthal columns on religious persecution have transformed American policies and institutions, and religious liberty throughout the world. American journalism has long been honored by Mr. Rosenthal's work, but never more so than by his pathbreaking columns on a subject that he, often alone, moved a nation to care about and to act.

Very truly yours,

Elie Wiesel, Virgil C. Dechant, Rabbi Norman Lamm, John Cardinal O'Connor, Rabbi Alexander Schindler, R. Lamar Vest, Wei Jingsheng, William Bennett, Lodi G. Gyari, Bette Bao Lord, Paige Patterson, James M. Stanton, Commissioner Robert A. Watson.

We thank him for his commitment to the people.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair, without it being considered a precedent for changing the proper sequence of Special Orders, and pursuant to the unanimous consent request of the majority leader, will recognize the gentleman from California (Mr. FARR) for 1 hour without prejudice to the resumption of 5-minute Special Orders.

TRIBUTE TO LATE HON. GEORGE BROWN

Mr. FARR of California. Mr. Speaker, I appreciate the consideration given to this special order.

As my colleagues have heard, the legislature is coming to an end. And it would be a very sad end if we did not pay tribute to one of the most distinguished California citizens to ever serve in the United States Congress, our beloved George Brown, who passed away this year as a Member of the House.

So tonight, surrounded by his family and friends, Members of the California delegation and other States have come forward and would like to express their feelings and sympathies for the great life of a great man who served longer in the United States Congress than any other Member in California history.

I am very pleased to be able to share this hour of colloquy, hour of memorial resolutions with the gentleman from California (Mr. LEWIS), my esteemed colleague and very close friend of George Brown and his neighbor.

I would like to call upon the gentleman from California (Mr. LEWIS) first. And then we are going to be sharing, as Members want to express their concerns and try to keep their remarks to several minutes. Because we can see there are many people here that want to speak.

Mr. Speaker, ''I believe in human dignity as the source of national purpose, human liberty as the source of national action, the human heart as the source of national compassion, and in the human mind as the source of our invention and our ideas.'' JFK quote.

He was a great man and a distinguished public servant; 45 years of public service; 36 years in the House, the longest serving Congress member in California history.

Won first election—as Monterey Park city councilman and became mayor one year later. Member of the California State Legislature. First elected to U.S. Congress in 1962. Unlike other politicians, he did not read the polls—No other member of Congress cast more ''unsafe'' votes—and live to tell the tale.

Best known for his work on science and technology: ''With his passing, science and technology lost its most knowledgeable advocate, he embraced the future by articulating a vision that includes harnessing science and technology to achieve sustainable development.''

George Brown quote from NY Times interview: ''From my earliest days, I was fascinated by science. I was fascinated by a utopian vision of what the world could be like. I've thought that science could be the basis for a better world, and that's what I've been trying to do all these years.''

He had the foresight to champion the creation of the Environmental Protection Agency, the Office of Technology Assessment, and the Office of Science and Technology Policy. Recognized leader in forming the institutional framework for science and technology in the Federal Government. Led effort to move the National Science Foundation into more active roles in engineering, science, education and the development of advanced technologies.

Had the vision, courage and integrity to have remained ahead of the mainstream: In the California Assembly authored first bill in the nation to ban lead in gasoline. Recognized, early on: the environmental hazards of burning fossil fuels; the destructive effect of freon; the importance of keeping space development under civilian control; and the necessity of monitoring global climate change. In due time, Congress adopted these issues as legislation.

Style of argument: Brown cultivated a polite and courtly style of argument. His reliance on reason coupled with the respect he showed his opponents made him a very effective advocate and enabled him to form alliances with people of all political parties.

Human qualities: Cigar chomping, rumpled suit, pacifist, social democrat, fierce idealist, a maverick. At UCLA, he helped create some of the first cooperative student housing and was first to integrate campus housing by rooming with Tom Bradley—the future Mayor of Los Angeles. Joined the Army despite his pacifist leanings in order to serve the country.

Inspiration to California Democrats: The current California Democratic party is replete with individuals who worked on Brown's several campaigns, including Senator Boxer. Dean of the California Congressional Delegation. He was our hero, and our inspiration to continue championing good and fighting evil.

Mr. Speaker, I yield to the gentleman from California (Mr. LEWIS), my colleague and esteemed friend, the chair of the Republican delegation from California.

Mr. LEWIS of California. Mr. Speaker, I appreciate my colleague yielding.

Mr. Speaker, I am wondering, let me ask my colleague a question if I can by way of procedure. I know there are Members on both sides who are asking for time, etcetera, and I have made a list and so on. Should we kind of divide this time in a way that I can distribute time and ask the Chair for unanimous consent for that?

Mr. FARR of California. I have no objection.

The SPEAKER pro tempore. Under the procedures of this Special Order, the gentleman from California (Mr. FARR) controls the time and distributes the time.

Mr. LEWIS of California. If he yields half of it to me, then can I distribute it?

The SPEAKER pro tempore. There is an hour on the clock, which is reserved to designees of the Leadership; and the Chair will not recognize for subdivisions of that hour.

Mr. LEWIS of California. Mr. Speaker, I very much appreciate any colleague yielding.

Let me say that I intend to make the bulk of my remarks at the end of this session. But let us begin by indicating to the body that oft times, especially with the advent of C-SPAN, the public very often sees only the confrontation between the two sides of the aisle, debate swirling around very important issues that sometimes takes us to the extreme of expression and confrontations that is the presumed norm.

I must say that, over the years, I have had great pleasure in the fact that George Brown and I found working together that we had so much more in common than our people who watch us on the football team of politics in our home district territory would ever realize.

For the Members' information, our commonality for me began when as a young person just out of college entering the life insurance business, I settled in a small town outside of Los Angeles for a couple of years to be close to the big city.

The local assemblyman at that point in time was one George Brown, and that is when I first heard of this legislator and friend to be.

Not too long after that, George sought his seat in the U.S. House of Representatives and served there for a distinguished period of time that was a part of his distinguished career. He then sought a seat, or at least the nomination, in the U.S. Senate and left the Congress for a while.

In the meantime, I had returned home to San Bernardino County. It was years after that initial contact in Monterey Park that I got to know George as a candidate for the Congress in our territory near his former home in Colton, California. He served in the Congress for a period of time before I arrived here. But over the years, we developed a very, very close personal relationship.

Most importantly, we developed a professional relationship, as well. And as his wife Marta that is in the chambers with us in person but in spirit in many more ways, along with her family, it is my privilege to share with my colleagues the thoughts of some of the Members on this side of the aisle as we distribute time to them and we very much look forward to hearing a great deal about this wonderful character who was a wonderful diplomat as well as ambassador here in the House of Representatives.

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GENERAL LEAVE

Mr. FARR of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FARR of California. Mr. Speaker, I yield to the distinguished gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, let me thank the gentleman from California (Mr. LEWIS) and the gentleman from California (Mr. FARR) for setting aside this time to give tribute and salute to George Brown, our House colleague who died earlier this year after representing his constituents in California for more than 34 years. He is survived, as it has been said, by his wife Marta and their six children. She is here with us in the Chamber and we are delighted to see her. Many of us are aware of Marta's strong interest in public service and her commitment to social change. I know that she will continue Mr. Brown's legacy of boundless curiosity and forging public policy that advances social justice.

Representative Brown, who became one of my best friends here, embodied the best that the House of Representatives has to offer. He was committed to public service, fought for social justice and became the Nation's foremost policymaker when it came to science and technology. He was a good listener and that is one of the reasons he was so successful. He took the time to understand his constituents and their problems. He believed that lawmakers should do their own homework, learn the issues and know how the issues affect their constituents. He prided himself on doing his own research.

I served with Mr. Brown on the House Committee on Science and the longer we served together, the greater my admiration for him grew. As chairman of the House Committee on Science during the 102nd and 103rd Congresses, he reached the pinnacle of his legislative career. He was the recognized leader in forming the institutional framework for science and technology in the Federal Government. He worked tirelessly to expand the scope of NASA as one of the Federal Government's lead agencies in promoting research and development.

In the 1960s and again in the 1980s, he helped restructure the National Science Foundation by directing that agency into more active roles in engineering and the development of advanced technologies. He also redirected the National Science Foundation to become the Nation's lead Federal agency in promoting mathematics, science, engineering and technology. His efforts have had a lasting impact on the development of these disciplines for kindergarten through 12th graders and more. He recognized that today's students will become tomorrow's workers. To be successful, these students must be technologically fluent and that will not happen without a strong commitment from the Federal Government working hand in hand and in coordination with the private sector. He understood that fact.

He developed legislation that established the Office of Science and Technology to focus the Nation's policy in these areas. In the 1970s, he championed the creation of the Environmental Protection Agency and the Office of Technology Assessment. He also directed the Congress toward groundbreaking initiatives for energy and resource conservation, sustainable agriculture, wind energy, global climate change research and space exploration. Throughout his career, he enthusiastically supported both piloted space flight and nonpiloted space exploration.

Before being elected to the Congress, he was the mayor of Monterey Park, California. Later he was elected to the California State Assembly where he worked on labor and environmental legislation. In fact, he introduced the first bill in the Nation to ban lead in gasoline in the early 1960s.

He was elected to the House of Representatives in 1962 where he fought for passage of the Civil Rights Act of 1964 and worked hard to stop U.S. participation in the Vietnam War. His career of public service spanned more than 40 years. He truly was a legislator for all seasons and the breadth of his interests spanned many horizons, from space exploration to social justice.

Mr. Speaker, this House is a better place because George Brown served here. I am proud to have known him and the country has moved forward because of his service in this Chamber.

Mr. FARR of California. Mr. Speaker, I yield to the gentleman from California (Mr. LEWIS) who will yield to other Members from California.

Mr. LEWIS of California. I appreciate my colleague yielding. It is my privilege to yield to the gentleman from California (Mr. CALVERT).

Mr. CALVERT. I thank the gentleman for yielding. George Brown. I am a conservative. George was an unabashed liberal. We were opposites in this business. But most importantly, George was my friend. I certainly put forth my sympathy to the family, Marta, everyone that is here today.

I have got to talk about my first memory of George Brown. I was in our family restaurant in Corona, California. George was our Congressman. I think I was probably 11 years old or so at the time. He was sitting there with my father having a drink and smoking a cigar, arguing the issues of the day, very passionately. George was a very passionate person, someone who believed very strongly in what he believed in and would advocate those issues and beliefs very ably here on the floor.

As I mentioned, he was my Member of Congress since I was a young boy and all through high school. As a young Republican campaigning for people against George in the early days, I remember one time George giving me a call one time and we had an opponent running against him. He called me up and he said, ''Can you get that guy to run against me one more time?'' He always had a sense of humor. He always participated in debates.

I have got to admit, one time we had a debate and he came up to the podium, and he looked over at the audience and he said, ''Look. I'm overweight, I probably smoke too much, I don't dress as well as I should.'' Everybody looked at him aghast. He looked over at his opponent and said, ''I just thought I'd point that out before my opponent did.''

He had a great way about him. He endeared himself to all of us. George, most importantly, was known for the business that he conducted here in the House. Certainly he was a chairman of the Committee on Science, was known as Mr. Science. He had a deep love of

science and the institutional framework for science and technology in this government.

In the mid 1960s and again in the 1980s, he led an effort to restructure and strengthen the National Science Foundation, moving the agency into a much more active role in engineering, science education and the development of advanced technologies. He developed legislation shaping the permanent science advisory mechanism in the Executive Office of the President, which was established in 1976 as the Office of Science and Technology Policy. He was a strong proponent of environmental preservation and of science and technology in the service of society.

I would like to think that George would be very interested in what we are trying to do in technology advancement for clean air, especially as regards components such as sulfur and other issues that we are advocating today in this House.

George championed the establishment of the EPA and the Office of Technology Assessment in the early 1970s. He helped advance initiatives for energy and resource conservation, sustainable agriculture, national information systems, advanced technology development, and just so much more in the integration of technology in education.

He enthusiastically supported both manned and unmanned space exploration. What an advocate on the floor. We worked together as Californians for the space program and he was an excellent advocate for space. His reputation on the Committee on Science helped him bring NASA participation and support for schools and businesses throughout the Nation and his district.

On a personal level, we put together a Salton Sea Advisory Committee. Five of us originally, myself, the gentleman from California (Mr. LEWIS), Sonny Bono, George, and the gentleman from California (Mr. HUNTER). I remember one meeting that we had in Sonny Bono's office, this was in December, just before Christmas, we were all talking about what we were going to do to save the Salton Sea. This was something that was so passionate to George. He loved the sea. He was raised there by the sea, in Imperial County, and wanted to see something done for future generations for the sea and for the environment around the sea.

Shortly thereafter, Sonny was gone, and now George. So two out of the five original members of the Salton Sea Advisory Committee are gone. But now we have new Members. Mary Bono is working hard to see the future of the sea and the rest of us. It is, I think, our responsibility in George's memory to make sure that we do the right thing and to make sure that the Salton Sea is something that everyone has a pleasant memory of in the future.

In his memory, we are renaming the Salinity Laboratory on the UCR campus the George Brown Salinity Laboratory. It is just one small example of his work but one that really shows his devotion to science and his love of what we are trying to do in this country to make it a better country for all of us as Americans.

Mr. Speaker, with that I would like to say I am going to miss George, I am going to miss seeing George right over here on the House floor on a daily basis and going over and having our daily chats, chitchatting about what is going on at home in the Inland Empire and working with him to make the Inland Empire a better place. But I will work hard to make our area a better place for our constituents. It is going to be more difficult without George.

Mr. FARR of California. Mr. Speaker, as you can see, George Brown was not only loved in southern California but also in other States. The gentlewoman from California (Ms. WOOLSEY) is from Marin County. He was loved in the north as well as in the south.

Ms. WOOLSEY. I thank the gentleman for yielding.

Mr. Speaker, I rise to pay tribute to a most wonderful person, our former colleague and friend George Brown. I want to reflect on a comment from a poem that was read at Representative Brown's memorial service by his son. For me, the essence of that poem, ''How Do You Live Your Dash,'' sums up why I so respected and admired George Brown. George's ''dash,'' those 79 years between his birth in 1920 and his passing this summer is the symbol of a person who witnessed, participated in and positively impacted many, many of the most important events of modern American life.

Years before George formally entered political life, he was actively engaged in the social and political issues facing our country. As a student at UCLA, George helped create cooperative student housing. He worked to break the racial color barrier by organizing the first integrated campus housing in the late 1930s. He was a conscientious objector during World War II and worked in a Civilian Conservation Corps camp in Oregon. Yet later he decided to join the military and served as a second lieutenant in the Army.

After the war, returning to Los Angeles, he continued his work, organizing city workers and calling for veterans housing.

In 1964, George was elected to the Monterey Park city council. Building on his past activism, his political work and style was a true reflection of his values. Always the gentleman legislator, as a city councilman, in the State Assembly or as a Member of this body, George was guided by his belief that through persuasion and reason, he could and he would build a better society.

As we all know, Mr. Brown cultivated a polite and courtly style of debate, often tinged with humor and with self-deprecation. He believed that public service was a noble calling and he demonstrated in his ensuing 45 plus years in the political arena that one individual can make a difference.

In 1962, he was elected to Congress. Thirty years later, I was fortunate to be elected to Congress and to become a member of his Committee on Science when he was the chair. In recent years, as chair of the Committee on Science, George began to challenge the scientific community to reflect on the social implications of their work and the ethical obligations that come with their high standing.

Every day I mourn the loss of this gentleman leader. I sometimes wonder how we will meet the demands of a world and a Nation challenged by the need for a technically educated workforce without our leader George Brown.

☐ 2045

Mr. Speaker, it was truly an honor to have known and served with George. His years spent on Earth, his dash, as his son reminded us, is the story and legacy of a wonderful person.

Mr. FARR of California. Mr. Speaker, I yield to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I yield to the gentleman from New York (Mr. HOUGHTON), a member of the Committee on Science.

Mr. HOUGHTON. Mr. Speaker, I thank the gentlemen from California, Mr. FARR and Mr. LEWIS, for organizing this tribute to George Brown.

Mr. Speaker, I am tempted to speak for the RECORD, as we all do here, and go over the distinguished points of George's life as he was a Member here in terms of his support for NASA and the Space Station before it was even a priority with him, what he did in setting up the Office of Science and Technology in the White House, and of a whole variety of things; the environment, and a series of things like this.

But I would really like to, and I am not sure whether that is appropriate, but I would really like to speak to Marta and the family, because I felt that George was sort of one of my family when I was here.

I am a Republican. I did not go to the Democratic Caucuses. I many times voted differently from George, but I always felt I was on the same wave length.

I will mention, what specifically keyed this to me was our fight for the Office of Technology Assessment. We both believed in science, George coming from a more academic and political atmosphere, and I coming from more of a business atmosphere. But we believed that it was important that this body have a scientific group that interpreted new science as it was coming along, new technology that was being applied in the workplace, so we could gear our legislation more to those things which are important for our future, rather than becoming just a commodity producer, which we would rapidly regret. So we fought the good fight and we lost, but in the losing of it, we forged a tremendous bond of respect.

First of all, about his appreciation of science, I am a big believer of this. I

think all of us here feel this way, that the reason our country is what it is is obviously because of the human endeavor and the enterprise, but the ability to take chances and to reach out.

Marta, you and your family come from the State that is doing it all now. What is happening in Silicon Valley is the thing that is going to determine the next century, and maybe even beyond that. He believed in that. He thought it was endemic, he thought it was important for the very lives we were leading every single day, not just scientists, not just politicians, but schoolchildren.

But also, it gave me an opportunity to know George as a human being. There are a lot of people we meet around here that are sort of different. They have their own ideas. They are all bright, they are all motivated, they are all decent, they have high integrity, but there is always something special about the chemistry between people. I always felt I had this with George.

I really do not have a lot more to say, other than thank you for letting us share the life of your husband with us.

Mr. FARR of California. Mr. Speaker, I thank the gentleman for those very dear and personal remarks.

I yield to another colleague, the gentlewoman from California (Ms. ESHOO).

Ms. ESHOO. Mr. Speaker, I would like to thank my California colleague and the chairman of the Democratic delegation of the State of California for yielding.

I think for the American people that are tuned in this evening and listening to us after hours, that this is a little different than what they are exposed to during the day in our very heated debates that sometimes generate more heat than cast light. But this is a very worthy program to tune into. This is when I think Members of the House really rise and exhibit the best of what America is about, when we recognize the humanity that is here in this Chamber.

So tonight we not only mourn the passing of our colleague, our beautiful colleague, that beautiful human being, George Brown, but it is an evening for remembering him, as well. So I join with not only my California colleagues, and the gentleman from California (Mr. LEWIS), who has so ably chaired the Republican delegation from California, a very dear friend of George Brown's, but the rest of our colleagues in remembering him and what he brought not only to this institution but to the country that we have all come here to serve.

All of the States are memorialized here in our Chamber, and we from California are so proud of this son of California, and what he did here.

I do not think that there are really any words that do justice to George Brown, because he was a very full figure, not only physically, but he had so many dimensions to him. Every time I look at this desk, I picture him leaning there. No matter how full this Chamber ever was, I knew exactly where to find George Brown, to either ask him how he was, what was happening in the committee, what he thought about a vote, or just in general, how everything was. You would find him leaning right there.

I always thought, a penny for your thoughts, George. What do you think as you look out at us? Because he was a very knowing individual.

I have the privilege of coming onto the Committee on Science as a freshman, and before I was sworn in we had something in California, and I am trying to remember, was it the California Institute that had put it together, and it was the day after the elections.

I went to George Brown because he was there at this, where all of the Californians were gathered, and said, I would like to serve on your committee. And he put that wonderful arm around me, he was like a big California bear with a big heart, and said, I would love to have you on my committee, Anna. And that was my welcome. It is not that easy to get on a committee in the Congress, and what a welcome that was.

You could find George Brown. Unlike any other person in this House, if you wanted to find him at his office, you could. When you walked in the door, he was not returning other people's phone calls. Do Members know what he was doing? He was reading the journals, the technical journals, the scientific journals that had been published, that masterful intellect applied to the good of our Nation.

In 1961 President John Kennedy challenged America to put a human being on the moon before the end of 1969. That was a huge challenge. We take for granted what happened, and thousands of individuals throughout our country listened to this call and took him up on his seriousness, and what that meant not only for our Nation but what it meant for us as a Nation, as a global leader. Many worked in their own significant way to accomplish that feat. One of them was George Brown.

How indebted we are to him as a Nation for his leadership and his courage. Many of us, as I said, take these decisions for granted and these accomplishments for granted once they take place, but it always takes individuals of courage and vision to make them happen.

I think George Brown always made sure that we were looking toward the stars. I think that just as we had Americans that walked on the moon that were launched, that he today is walking among the stars and in heaven. He certainly has earned it. We are, indeed, a grateful body, and we are grateful to his constituents for sending him to us. He was a gentle man, he was a refined legislator, he was a proud Californian, he was a compassionate human being, and I thought that when God called him, that he could really answer and say, you didn't call me to be successful, you called me to be faithful. And that he was, to what he believed in and what was best in humanity. He never left anyone behind.

I think for that reason, Marta, he walks now not only among the stars but among the saints. Thank you for sharing George Brown with us. God bless you, George. I will always picture you standing there at that bench, and I do not think that there is anyone that could ever come into the Congress to take your place. You will always, always be a Member here and part of our delegation.

Mr. FARR of California. I thank the gentlewoman very much.

Mr. Speaker, I yield to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I yield to the gentlewoman from California (Mrs. BONO), George Brown's colleague in concern about the Salton Sea and many other things.

Mrs. BONO. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, inscribed in an office building in California's capital Elipse is the quote, ''Give me men to match my mountains.'' My late friend and colleague, George Brown, was such a man. No one knows this better than his wife, Marta, his family, friends, and his loyal staff members.

Today our thoughts and prayers are with George and those who loved him. A great man of modest origins, George was neither pretentious nor physically imposing, but the strength of his convictions and the depth of his intellect combined with an unwavering belief in the ideals that he held dear made him a welcome ally and formidable foe.

Although I do not share his liberal philosophy, I share the commitment he had to fighting for what he believed was right. George Brown recalled a more gentle era of politics and, indeed, society. With his rumpled trappings and self-effacing style, always courteous in debate, George could charm his opponents while subtly skewering them with the scientific precision of his arguments.

Although he was the physical embodiment of the old cigar-smoking pol, he always talked straight and let the public know where he stood on the issues. He never hid his politics within smoke-filled back rooms, nor did he waiver from his liberal beliefs that defined his political philosophy.

George was also ahead of his time. Long before it was politically correct, he was a champion of civil rights. Decades before the Vietnam War, he was a conscientious objector to wars, although he later served his country as a second lieutenant in the Army.

Before the term ''environmentalist'' became fashionable, he worked in the Civilian Conservation Corps in Oregon, and, of course, as a scientist he advocated the use of science to improve not only the lives of everyday Americans, but also to lay the foundation for a better world.

As the distinguished chairman of the House Committee on Science, he never

allowed partisanship to interfere with the integrity of his scientific principles. Really, that is the greatest lesson I learned from this wonderful man. Regardless of the issue, George believed that you could work together to find common ground, that rancor and political attacks had no place in a civilized institution. He may have disagreed with your politics, but he would never treat you as less of a person because of your political differences.

I had the privilege and pleasure of working closely with George on an issue that was close to both of our hearts, saving California's Salton Sea. George probably knew more about the problems facing the sea and the relevant science than any other Member of Congress. As a scientist, he probably knew more than many of the experts who are currently working to find a solution to this looming environmental crisis.

He was born and raised near the sea, and spent years studying its decline. He was passionate in his belief that he could restore it. That is what I will always remember about George Brown, his quiet certitude that our democratic system can be made to work if we are only willing to work together. George proved time and time again that you could find common ground to advance a common good. I will try to honor his memory by following his example.

I want to say also to his widow, Marta, I remember sharing many, many a plane ride with George and Marta Brown between the Capitol here and Southern California. Every time we flew together George and Marta had a wonderful embrace for me after I lost my husband, Sonny.

I have spoken with Marta on a couple of occasions about her beliefs and her dedication to public service and her dedication to also restoring the Salton Sea. I just want to wish Marta Brown the greatest of strength and God speed in the years ahead.

Mr. FARR of California. I thank the gentlewoman from California (Mrs. BONO) for those beautiful remarks. Mr. Speaker, I yield to the gentleman from Wisconsin (Mr. OBEY), a person on whose shoulders the last few days of this session are dependent, the ranking member of the Committee on Appropriations, the former chair, a good friend of George Brown.

Mr. OBEY. I thank the gentleman for yielding, Mr. Speaker.

I remember the first time I ever met George Brown. I came in that door on the side of the Chamber. I was elected on April Fools Day of 1969. George came up to me right after Easter when we got back, he came up to me, and I had not met him before. He said, my friend, Bob Kastenmeier, tells me you are to be trusted. And I did not know what that meant, I did not know who he was. But that was his way of introducing himself to me.

I asked Bob Kastenmeier the next time I saw Bob, I said, tell me about this George Brown fellow. Well, he said, he is a gutsy antiwar hero.

□ 2100

He is a staunch defender of civil liberties, he is an absolute believer in civil rights and, he said, he is the ultimate rational man. And I think that really does describe George.

He did yeoman's service here as a Member of the Committee on Agriculture and as chairman of the Committee on Science. But I think his greatest service to the House was simply his uncompromising political integrity and his uncompromising disdain for hypocrisy, which we often find a lot of in this town.

I often kidded George. I told him that he reminded me of that wonderful character on British television, ''Rumpold of the Bailey,'' the British barrister who constantly defended unpopular causes, much to the chagrin of his law firm and his wife. And I told George that I thought not only did he have a slight resemblance to Leo McKern, the actor who played the part, but that also his style was the same, because he really did stand up for causes and people who had very few defenders, and that is what this institution often needs.

Mr. Speaker, I think this place will miss him greatly. He was a superb public servant. He served California well. He served the country well, and I am grateful that after he ran for the Senate, he returned to this body and graced us with his many years of service, teaching us every day that public interest comes before private interest.

Mr. FARR of California. Mr. Speaker, I now yield to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I yield to the gentleman from Michigan (Mr. EHLERS), a member of the Committee on Science.

Mr. EHLERS. Mr. Speaker, I thank the gentleman from California (Mr. LEWIS) for yielding me this time. It is a pleasure to speak here about George Brown, even though it is also tinged with a good deal of sadness.

I knew about George Brown a long time before I met him. In fact, my first acquaintance with him dates back to the mid-1970s when, as a nuclear physicist and a county commissioner, I was appointed by the American Physical Society to the committee to select science fellows for Members of Congress. One of those we selected ended up working for Mr. Brown. I got to know him quite well and talked to him regularly and he has described Congressman Brown in very glowing terms. And after that, for some 20 years, I watched the progress of Mr. Brown and the wisdom of his work through the science media.

It was a pleasure when I first arrived in the Congress in early 1994 to make his personal acquaintance and to serve on the Committee on Science at the time, he was chairman. Also, I worked with him after the time when he became the ranking member and the Republicans were chairing that committee.

He was a striking person in many ways, and I found him to be a many-dimensioned person. He was a gracious gentleman. At the same time, he was a great scholar. He was also a wise leader. In spite of that, he was self-deprecating and self-effacing. A marvelous person in so many different ways.

Mr. Speaker, what particularly struck me was that in a very partisan institution, he was willing to ignore partisanship to help a new Member to discuss the history of specific issues and also acquaint me with the history of previous actions of the Congress.

He was also very willing and freely gave of his advice to me as a newcomer and I found his advice very helpful. He was a great person in so many ways and so many senses of that phrase. We rarely meet great people throughout our lives, but when we do we immediately know that we are in the presence of greatness and we also appreciate it. That is the way it was with George Brown.

As I said, he was a great man. I knew it when I first met him. I appreciated it even more as I continued to work with him on science issues and we had a great kinship on that score.

I certainly appreciated him, the work he did, and particularly his friendship with me and his attitude towards the Congress and towards advancement of science. We will all miss him greatly, and I will especially miss him. I just wanted to take this opportunity to express my condolences to the members of the family and to thank them for their willingness to share George with us.

Mr. FARR of California. Mr. Speaker, I thank the gentleman from Michigan (Mr. EHLERS) very much, and I appreciate the remarks and I know the family does as well.

Mr. Speaker, the great State of Texas may be a big State, but it is not as big as the heart of George Brown. To speak for that State is the gentleman from Texas (Mr. LAMPSON).

Mr. LAMPSON. Mr. Speaker, unlike so many of our colleagues who have spoken, I did not know George Brown before I came to Congress. And when I learned that I would have the opportunity to work alongside the late George Brown, who served for 32 years on the Committee on Science, 32½ years of his 18 terms, I was quite pleased and thrilled, having been a high school science teacher for the time during the 1960s and watching and knowing of what his work consisted.

While Congressman Brown served as chairman of the Committee on Science during from 1991 to 1994 and ranking member from 1995 to 1999, he worked diligently to create the institutional framework necessary to bring science and technology into the Federal Government. And from the mid-1960s on, he led an effort to restructure and strengthen the National Science Foundation, moving the agency into much more active roles in engineering, science education, and the development of advanced technologies.

I guess I came to Congress expecting more camaraderie and less partisanship

than what I have seen so far, but for me it was George Brown who I will remember as the statesman and the consensus builder on the Committee on Science. And in addition to that, he developed legislation that created what later became the President's Office of Science and Technology Policy and pushed for the development of the Environmental Protection Agency and the Office of Technology Assessment.

Throughout his impeccable congressional career, George Brown pushed the envelope not only for NASA and the human space exploration program, but also, as we have already heard, for civil rights, the environment, even family farmers throughout the Nation.

While I was only able to spend 2½ years getting to know George, the stories that I have heard continue to make me smile and will keep him in my memory for an awful long time. Chairman George Brown cannot be replaced and he will be sorely missed by everyone who knew him. Thank you and God bless the family.

Mr. FARR of California. Mr. Speaker, I now yield to the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I yield in turn to our colleague from California (Mr. ROHRABACHER) who served several years with George Brown on the Committee on Science.

Mr. ROHRABACHER. Mr. Speaker, I have to say, everybody has got a hushed tone tonight remembering George. I do not remember him in hushed tones. This guy was a fellow. He just had so much life about him and there was so much goodness about George Brown and he was right out front on everything.

He was certainly my chairman, he was my colleague, and he was a friend. He was chairman of the Committee on Science, and I was on the committee. I am still on that committee. I am now the chairman of the Subcommittee on Space and Aeronautics, and every time he would come over once he lost that spot, we would always be happy because he was a treasure house of information. He was an institutional treasure to our committee and we have already felt his loss.

Let me note this: that as chairman of the Committee on Science, when he was chairman of the Committee on Science, he exercised his authority as fairly as anyone who has ever served in this body. So although we had some disagreements, he always, always was fair. I do not even remember one incident where I was angry at him because he did not give a Member the right amount of time or tried to cut off debate or short-circuit someone else.

Now, we disagreed about things, but he was always right up front. In fact, one of the great things we know about George is that he never apologized about being a liberal. This man was unabashedly, no, he was bashed around for being a liberal I am sure, but he was unapologetic about being someone who believed that government should help people. That was his basic philosophy. Government should help people. It was as simple as that, because George Brown loved people.

Mr. Speaker, I am a conservative. I have a little bit more suspicion about government, and that is my philosophy. George respected that. There was no situation where he thought he was above me because he wanted to help people through government and I am suspicious of government. No, he was an honest Democrat as well. He believed in democracy and believed in this system.

Again, he treated differences, as we have heard today, with a great sense of humor. With his sense of humor he made this a really nice place and a good decent place to work and added a great deal to the cooperation we have had in this body.

Let me just say that being someone of a different philosophy, we ran people against George Brown. Here we are commemorating George Brown. Let us remember those of us on this side of the body ran good candidates against George Brown every time. Marta will certainly, I know, confirm that he had some tough races out there. But guess what? George Brown won every single race. Every time we put somebody up against him, his constituents returned him because as we found out, George Brown was much beloved by his constituents, Republicans and Democrats alike. We had trouble getting the Republicans not to vote for George Brown, they loved him so much.

The reason they loved him out there is because he loved them. There was a great deal of goodness and love in George Brown's heart. He was a man of integrity and that could be seen for sure early on in his life. We could see it here. But if one studies George Brown's history early on in his life, he took a stand against the war in Vietnam. He was one of the first ones to recognize what a great threat that was to the body. He did not wait for it to become trendy. He did not wait for it to become some issue where it was going to do him some good. George Brown was out fighting the war in Vietnam long before some of us realized.

Some of us on the conservative end of the spectrum say to ourselves perhaps that war went on too long before we realized where it was going and where it was taking America. Perhaps George Brown, who had the goodness and intent of trying to help his country, maybe he had some realizations in his heart. Plus, he was a champion of civil rights early on.

And, Mr. Speaker, I will say this as a conservative. Some of us who are suspicious of government have to look at people like George Brown and his early struggles in the civil rights movement and we have to feel a little bit embarrassed that it was an unabashed liberal who was taking care of protecting people's human and civil rights in this country. Some of us should have learned a lot from George Brown in that regard.

Finally, let me just say that George Brown, even though we ran candidates against him, never held a grudge. I remember him telling me right down there standing with me, ''Well, you fellows always run somebody against me. And even though Dave Dreier likes me a lot, I know that we are friends, but don't worry. We are going to work all of these things out and we have all of these things we have accomplish together.'' And sure enough, he never held a grudge and we worked so well together.

Mr. Speaker, he is going to be missed. I am going to miss him. Everybody else here is going to miss him. He loved us. He loved his constituents. He loved his country. He had a good heart and we loved him. I loved George Brown very much and I am going to miss him very much. My heart goes out to Marta and just condolences to the whole family. And I guess I cannot say much more except all of the great things that he did in the Committee on Science, they are going to go on helping America for a long, long time. A lot of people are going to benefit from those things. They are not going to remember George's name, because in 50 years none of our names are going to be remembered. But he has done a lot of good for this country and certainly those of us who served with him will never forget George Brown.

Mr. FARR of California. Mr. Speaker, I thank the gentleman from California (Mr. ROHRABACHER).

Mr. Speaker, I would like to now call on the gentlewoman from California (Mrs. CAPPS). She and the other gentlewoman from California (Mrs. BONO) share something in common with Marta Brown. They have all lost their husbands while serving in Congress.

Mrs. CAPPS. Mr. Speaker, with a sad heart and also a smile of remembrance, I rise to pay tribute to our beloved colleague, George Brown. I am very proud and honored to join my friends on the floor this evening to honor George's memory and to celebrate his life.

Let me first express my condolences to Marta, who joins us in the Chamber tonight, and to everyone else in George's large and wonderful family.

Mr. Speaker, I would say to her, ''Marta, I have been in your shoes. It is not easy. But your spirit and your strength in this difficult time have inspired all of us.''

I also want to send a special word of condolence to George's staff. I know from my own experience, and that of my staff who were Walter's staff, that they are doubly burdened. For 3 months they have been grieving for their leader, while at the same time working hard to continue to serve the people of the 42nd District in California, and my heart is with them.

☐ 2115

Mr. Speaker, this House has many national leaders. This House has many warm and decent people. George Brown was both. He was first elected during

the Kennedy administration when Americans heard our young President promise that we would put a man on the moon.

Throughout his illustrious career, few Members in this body contributed as much to our successful space program as did George Brown. With his leadership on the Committee on Science, George kept our space policy on track. He knew that unlocking the secrets of the heaven's would benefit our quality of life here on earth.

As a fellow Californian who once served on his committee, I was awed by and so grateful for George's visionary work on the space program. He made such a mark on science education which will be felt for generations to come in every elementary science class and secondary science class throughout this country.

He made such a mark on the space exploration of this country which I think of each time I watch a launch at Vandenberg Air Force base in my district. Each time, I think of George Brown. That legacy will continue as long as there is space exploration in this country and even in this world.

But, Mr. Speaker, as effective a Member as George was, he was an even better person. I will never forget the kindness and generosity that George extended to Walter and me when we first came to Washington in 1997. I will surely never forget George's warmth and comfort when Walter passed away.

After George died, many of us flew together to his memorial service in his district. Democrats, Republicans, Members from around the Nation, senior and junior Members alike, we spent many hours reminiscing about George.

We remembered his legislative victories. We again admired his dedication to the people of his district. We laughed about his sense of humor. We recalled his warmth and decency.

Being in his district for this memorial service gave me such a sense of the high esteem with which he was held and is held by the people he represented for so many years. This group that came together to memorialize him was such a diverse group that he held together throughout the decades that he served the 42nd District. This is a legacy also which is a model for our country and for the leaders in this House.

All of us in Congress join with George's family and staff and his constituents to mourn his passing. We will all miss him. But we are also thankful to God for the precious time we had with him. We ask God's continued blessing upon his family, his precious family, his district, and the legacy which he leaves to us all.

Mr. FARR of California. Mr. Speaker, I yield to the distinguished gentlewoman from San Francisco, California (Ms. PELOSI).

Ms. PELOSI. Mr. Speaker, I thank the gentleman from California (Mr. FARR) for calling this special order. It gives us an opportunity to say a goodbye to George Brown, which is heartfelt, nonetheless very sad.

Mr. Speaker, it is with great sadness that we mark the passing of our dear friend. But this is a very special special order because it brings some closure. I do not think a day goes by that most of us do not come to this floor to vote when we expect to see George sitting in his regular seat.

As we are accustomed to saying here in the House, I wish to associate myself with the remarks of my colleagues who have spoken before, because I think they have spoken very, very eloquently, and it is a compliment to be associated with their remarks because this man was very special. But I think that our colleagues have captured him.

As I associate myself with the remarks of my colleagues, I will just say a few personal remarks. George was an inspiration. We all know that. He was a leader, as has been acknowledged. He was an intellectual, and we all benefit from that. He was also a politician, a political leader. In California, he is a legend and has been, really, for a very long time.

When he, representing the district that he did, took the stands that he did, it was with great courage. It would be easy for someone from my district to speak out against the Vietnam War and to vote against the military spending at the time. It was not easy for George Brown. But he did it anyway.

We all benefited from the fact that he was a student of nuclear engineering. When I say ''we all'', I mean every person in this country, because we had the benefit of his thinking. We continue to have the benefit of his thinking because of the legacy that he has left.

Not a day, again, goes by when we do not miss him, do not think we are going to see him in the Chamber, but we do have the benefit of the ideas that he has put forth and the leadership that he has provided and the way he has translated all of the ideas that he has in his knowledge of science and engineering into public policy, into a better future for our country.

He was genuinely interested and curious about all complex issues and the debates that swirled around the development of modern science and technology. So he was a very fascinating man.

I want to say that we will miss his sense of humor, his civility, his deep commitment to public service. I, and the constituents of my district join me, extend our deepest sympathy to Marta, to the Brown family, to his constituents, to his staff, to his friends, all of whose lives he touched, enriched, and changed for the better.

With that and with great love, George Brown, we will miss you every single day we serve here, and we will always be grateful for the memory you have provided for us.

Mr. Speaker, it is with great sadness that we mark the passing of a dear friend and a long-time Member of this Chamber, George E. Brown, Jr.

George was an inspiration. I know the constituents of his San Bernardino district remember him with great fondness and respect. He was a distinguished and dedicated public servant who served in this House with great dignity for 35 years. In my opinion, George should be remembered, above all, as a man of high principle. He was first elected in 1962 and frequently spoke out against excessive military spending and America's involvement in the Vietnam War. He maintained his principles and, during the tumult and shouting of the 1960s, routinely voted against military spending for a war that was, in his careful and considered analysis, an unjust intervention.

Since his days as a student of nuclear engineering and, later, as a working physicist, George took a strong and focused interest in modern technology, the advancement of the sciences, and, of course, space exploration. As Chairman and ranking Democrat of the House Science Committee, he helped shape and define the evolution of the National Science Foundation, NASA's International Space Station, and other significant endeavors that engaged the best minds in American science and technology.

George was genuinely interested in, and curious about, all of the complex issues and debates that have swirled around the development of modern science and technology. His palpable excitement belied his position as the oldest Member of the House in the 106th Congress. For many years, he served ably as Dean of the California Congressional delegation, and George leaves us with the distinction of representing California longer than any other member of Congress. His influence and legacy will continue to define the work of this body.

We will miss George, his principled ways, his sense of humor, his civility, and his deep commitment to public service.

I would like to extend my deepest sympathy to his widow, Marta Macias Brown, to the Brown family, his constituents, and his friends and colleagues, all of whose lives he touched, enriched, and changed.

Mr. FARR of California. Mr. Speaker, I thank the gentlewoman from California (Ms. PELOSI) very much for those beautiful words.

Mr. Speaker, I yield to the gentleman from California (Mr. LEWIS) for a moment.

Mr. LEWIS of California. Mr. Speaker, I am proud to yield to the gentleman from Long Beach, California (Mr. HORN).

Mr. HORN. Mr. Speaker, I thank the gentleman from California (Mr. LEWIS) and the gentleman from California (Mr. FARR) for this very moving ceremony. So many people have said so many wonderful things. They are all true.

I first met George Brown in January of 1963 when he came here as a new, fresh, young congressman. I was then the legislative assistant to Senator Thomas H. Kuchel, the senior Senator and Republican whip from California. He called me and said, ''Steve, I hear a lot of good things about this fine young man. Go over and give him my best.'' And I did. George Brown was, from the very beginning, noted by people in the House as well as some in the Senate that he was a very decent person.

When I came back here 30 years later we renewed our acquaintanceship. I used to kid George ''One of these days, George, the Legislature is going to redistrict you into some suburb of Las Vegas''. That was because he had kept moving east from his first election in Los Angeles County. When George came to the House, he served on the Committee on Agriculture. In those days, Los Angeles County was the No. 1 Agricultural County in the Nation in the value of its crops.

Over 18 terms in the House, George moved from Monterey Park, then Colton, then Riverside, then Colton, then Riverside, then San Bernardino, then Riverside, then San Bernardino again. No other Member of the House has had that many different residences moving in one direction as George was able to do.

As the gentleman from California (Mr. ROHRABACHER) said, the Republicans always sought to defeat him, but they never could because he loved his constituency, and they loved him.

Then in 1993, George was in a key role to help pull the California delegation together. His ally in this was Carlos Morehead on the Republican side. In 1993, when Jane Harman and I came here as two freshmen, we were designated to work with George and Carlos on the executive committee of the Democratic and Republican delegations. Our aim was to work for economic development in southern California.

From March 1988, 400,000 people had been let go in the aerospace industry. We had a major crisis as a result of the end of the Cold War and the economic recession. Carlos and George pulled the delegation together. The delegation had not met for 8 years and it was a disgrace. The two Senators would come over at all our meetings. Ron Packard, Carlos, and George led the delegation to work together.

George always had a great sense of humor. When I saw him on the floor, I once asked him what he thought of some of the Democratic Presidential candidates in the 1960s. George's sense of humor was terrific, which I cannot repeat here, but it gets down to a one word description for each one, and it was not the same word for each one. He had suitably captured the personality, values, and interests that seemed to be encompassed in that word. I would smile through the rest of the day.

We have heard every Member practically talk about his decency and his scholarship. That was true. He was a real human being. He is the kind of person we do not forget, and he is the kind of person we ought to have in the House of Representatives, one who stands up for his principles yet can work with everybody else who might have different principles.

Nini and I extend condolences to the family. We worked with a great legend. We all respected him.

Ms. LEE. Mr. Speaker, I rise to honor the memory of my good friend and colleague, George E. Brown, Jr. George was a man of many accomplishments, who led by work and example. He was the leader of the California delegation and led our state on many issues of importance. George came to the U.S. Congress after an illustrious career in California where he had served as a city councilman and mayor of Monterey Park. Subsequently, he was elected to the California State Assembly where he authored legislation providing public employees the right to bargain collectively and foreshadowing his many environmental efforts in the House; he also introduced the first ban of lead in gasoline in the nation.

George was elected to the U.S. Congress in 1962. He was in the forefront of fighting for passage of the 1964 Civil Rights Act and many of us remember that picture of him with President Johnson, Martin, Robert Kennedy and Rosa Parks hanging in his office. He protested the Vietnam war when it was not popular to do so. To give leadership to the anti-Vietnam war movement and the Civil Rights movement, George made a brave but unsuccessful run for the Senate in 1970. As a result of the census reapportionment, a new House seat was created and in 1972, George returned to his beloved Congress to serve the people in communities where he was raised, the Inland Empire.

In the 1960's and again in the 80's George guided the National Science Foundation into a more progressive position, refocusing it on engineering, science education, and the development of advanced technologies. George Brown became Chairman of the House Science Committee in 1991. While Chair, he was an innovator in both Science and Technology, always looking to the future and to our nation's progress as the path to follow. He brought creativity and innovation to the House Science Committee and he was instrumental in creating what we now think of as the framework for science and technology in the federal government.

Ahead of the mainstream, he shaped our nation's science for good by bringing its oversight into the Executive Office and establishing the Office of Science and Technology Policy. By doing so, he made science and technology truly a national priority which provided the impetus to the research initiatives so important to the great research and technology enterprises in our country and especially in California.

I was fortunate to have developed a friendship with George when we worked closely together on California base conversions, an issue of the utmost importance to my district, the 9th Congressional District of California. George was a tenacious fighter for the public good; many of us could learn from his great example. Even when the Democrats lost their majority in 1994, George remained influential.

Earlier, I mentioned George's leadership in the California Assembly on environmental protections issues. In the House, he also recognized the importance of protecting the ozone layer and other elements of environmental health as well as championing the creation of the Environmental Protection Agency and the Office of Technology Assessment.

His courtly style and hard work made him a favorite in his district; he respected all points of view and all parties respected him in turn, making him a formidable advocate and effective negotiator on the side of the liberal and moderate. I will truly miss my friend George Brown.

Ms. ROYBAL-ALLARD. Mr. Speaker, as Chair of the Congressional Hispanic Caucus and former Chair of the California Democratic Congressional Delegation, I want to express my deepest sympathies for the passing of my colleague, friend, and mentor, George Brown.

It has been a true honor to serve with George in the House of Representatives. I have had the privilege of knowing George for years, since he served with my father, Congressman Edward R. Roybal, for over two decades.

George was the oldest current House member and the longest serving member of the House or Senate in the history of the state of California, as well as the top Democratic Member on the House Science Committee and a senior member of the House Agriculture Committee.

George served as Chairman of the House Science Committee during the 102nd and 103rd Congresses and was probably best known in Congress for his work on the science and technology issues under his committee's jurisdiction. As an energetic proponent of the environment, Brown championed the establishment of the Environmental Protection Agency and the Office of Technology Assessment in the early 1970s.

George was a person of integrity, intelligence, and respect, who never failed to stand up for what he believed. George worked to bring down the color barrier at the University of California, Los Angeles by organizing the first integrated campus housing in the late 1930's. In the 1940's he helped organize Los Angeles city workers. Later, in Congress, Brown fought for passage of the landmark 1964 Civil Rights Act. He was one of the first outspoken critics of the Vietnam War and stood his ground by voting against every defense spending bill during the Vietnam era.

George was also friend and role model to me and countless other members of Congress and staff. George paved the way for me to become the first woman to chair the California Democratic Congressional Delegation. Not confined to the dictates of seniority or protocol, George encouraged me to run for the chairmanship, recognizing the value of inclusion and promoting new leadership.

George was an outstanding legislator, individual, and friend and he will be dearly missed.

Mr. MARTINEZ. Mr. Speaker, George Brown, Jr., who passed away last summer, was not only a colleague but a personal friend. I had the privilege of working with George for many years, here in the House of Representatives and in the City of Monterey Park. During this time, I grew to respect him as a man of great integrity, commitment, and kindness.

I first met George in the mid-1950s when he was the head of the Democratic Club and a City Councilman in Monterey Park. At that time, I did not know that I would someday have the opportunity to represent many of the same people. Because of his tremendous knowledge and enthusiasm for public service, he developed a bond with the residents of Monterey Park that lasts to this day. George was a leader who inspired people to community service. He had the ability to fill meeting halls to capacity. His unwavering commitment to public service earned him the respect and loyalty of the people of his district and the surrounding communities.

Many may remember when George was arrested on the steps of the Capitol for joining with a group of Quakers in a protest against the war in Vietnam. I have often thought about this as an example of his commitment to his beliefs. Even on points where there was disagreement, George's integrity was never in question. He was firm in his convictions and willing to stand up for his beliefs.

I have no doubt that George Brown will be remembered as one of California's greatest statesmen. His presence in this Chamber is missed.

Mr. PACKARD. Mr. Speaker, I would like to take this opportunity to pay tribute to both a colleague and friend, George Brown.

I had the privilege of serving on the Science Committee during George's tenure as Chairman, and valued the opportunity to learn from his leadership. George and I worked together on many occasions in support of interests important to our native southern California. George may forever be remembered for his ability to bring together all Californians serving in Congress.

George believed in the power of persuasion to settle differences. He was polite and courteous in his treatment of everyone on both sides of the aisle. George prided himself on working hard for his district. He was dedicated to the people of southern California and he will be greatly missed.

In George Brown, this institution has lost a distinguished Member of Congress, a faithful public servant, and a good man. George will be greatly missed, not only as a tireless advocate for the people of California's 42nd Congressional District, but as a close friend to those so fortunate to have known him.

Mr. MOAKLEY. Mr. Speaker, I would like to thank Representatives LEWIS and FARR for reserving this time to allow Members an opportunity to pay tribute and to honor the memory of our dear friend, the gentleman from California, George Brown. I am moved by their reserving this special order. In a genuine expression of bipartisanship, their efforts serve to highlight one of George Browns' greatest strengths. Throughout his long and distinguished career, George Brown worked diligently to build bonds with other Members from across the aisle. More often than not, he succeeded in these efforts. His constituents were wise to re-elect him to 18 terms of service in this House. George represented the 42nd District of California with distinction and honor. Serving the needs of his constituents, and making certain that their interests were protected were the basis of his long, distinguished commitment to public service.

Throughout my tenure in the House as well as my service on the Rules Committee—as Chairman and Ranking Member, I had the opportunity to work with George on a number of issues. His interest and leadership on issues as science and technology was strong. He had a wonderful ability to explain new technologies in ways that even those of us less aware of these technologies could understand their potential impacts. He was especially proud of his work to ensure that our schools would benefit from new advances in the area of educational technology. George Brown understood the importance of public education, he worked tirelessly to make certain that our young people would have access to the exciting worlds of science and technology.

In closing, Mr. Speaker, I am thankful that we have had this opportunity to honor George Brown. We will surely miss his presence and his civility here in the People's House. While he is no longer with us, his commitment to his constituents and to his nation will ensure that he is remembered for generations to come.

Farewell my friend.

Mr. HALL of Texas. Mr. Speaker, like the other Members who have spoken here before me, I have a special affection for our dearest friend George Brown. But unlike these other Members, I also have a special privilege—the privilege of attempting to carry on Congressman Brown's work as Ranking Democrat on the Science Committee.

This is no easy task. More than anyone I could ever imagine, George Brown was born to be the Chairman of the Science, Space, and Technology Committee.

Two fires burned within George. On the one hand, he devoted his mediations and tailored his actions toward achieving justice and equality for all those in our society. In his 35th year in Congress, he continued to take the time to read the works of the ancients—Greek, Roman, Eastern and Middle Eastern—as well as the works of modern philosophers. He, like them, was obsessed with the concept of social justice and how its pursuit would contribute to an ideal society.

But even more so, George loved science, space, and technology. George came from humble beginnings in Holtville—in the heart of the hot and arid farmlands of the Imperial Valley. From the beginning George was an extraordinary student. He graduated from high school at the age of sixteen and, in the year or two between high school and UCLA, read nearly every book in the Holtville library. Science moved him even then. He studied the stars, read technical journals, and devoured science fiction. One can imagine, perhaps as H.G. Wells ''War of the Worlds'' played on the radio, a seventeen-year-old scholar with the body of a linebacker, looking up at the crystal-clear desert starlight and imagining the wonders of human and robotic space exploration.

George would speak about two Members of Congress who taught him valuable lessons about the institution. In his freshman term, George served on the Education Committee. The Chairman, Adam Clayton Powell, quickly learned of George's interest in post-secondary education and training and gave the freshman Member from California the lead on re-authorization of many of those programs. It was a lesson George never forgot and one he often repeated with young, inexperienced Members of the Science Committee from both sides of the aisle. There are many current and former Members of the Science Committee who can point to significant legislative accomplishments that they are able to claim because of Chairman Brown's modesty and support.

He also talked frequently about my fellow Texan Olin ''Tiger'' Teague, who chaired the Science Committee in the 1970s. There were no two Members of the Democratic Caucus further apart politically than George and Tiger. But each had a deep respect for the other's fairness and honesty. Tiger developed the habit, when confronted with a thorny political problem on the Committee, of calling George into his office and asking for George's advice on how to solve the problem most justly. George himself adopted this practice. Any Member—conservative or liberal, Republican or Democrat—who was sincere and had done his or her homework would get a fair hearing from Chairman Brown. In my ten Congresses, I have not seen a Chairman who was more fair to his Committee Members than George Brown was.

George leaves a large and important legacy in this institution and particularly in the Science Committee. I am honored both to be part of these remembrances this evening and to have a small role in trying to continue that legacy.

Ms. LOFGREN. Mr. Speaker, I only served with George for a few years from January 1995 until his passing just a short time ago. But while I served with George just these few years, I will never forget this man whose influence on our country and its future is so profound.

In truth, I first became aware of George Brown while working for my predecessor in office, Congressman Don Edwards. At the time the nation faced the challenge of war in Southeast Asia. Early on, American opinion was not divided as it would later be. There were few who were willing to question. Don Edwards was one of them. So was George Brown. Whatever your view of America's role in that conflict, the courage to do one's job as a legislator—to ask the tough questions and to stand for what one believed in does command respect. George Brown was always a person who would stand up for what he believed in.

When I was elected to the 104th Congress, I asked to be assigned to the Science Committee where George Brown was serving as ranking Member. At the time all of the former Chairmen of Committees were adjusting to new roles in the minority. Some former Chairmen, quite frankly, had a hard time coping with this new role. George Brown rose to the occasion. Who wouldn't rather be in charge? But he understood the important role he could play by using his knowledge as a resource for the whole Congress—both Democrats and Republicans. I came to understand that if George Brown gave advice on Science Policy it was a good bet that it was exactly what our country should do. And while the 104th Congress definitely had its rocky moments, as the months wore on it became clear that George Brown was commanding respect on both sides of the aisle.

I doubt that all of the scientists in America understand how much is owed to George for his vision and understanding about science. Can all the American citizens fully appreciate how much poorer would be our economy and our quality of life—how much more limited our future—without the years of advocacy for sound science policies that George led? But George did his work not for the glory, but for the satisfaction that he was making a difference. He was never afraid to do what was right and he was smart enough to figure out, in the complex field of science, what was the correct course.

George was widely rumored over the years to be contemplating retirement. When I first heard that rumor, I wrote him an impassioned multi-page letter asking him to stay and letting him know how much his leadership on science would not only be missed in this House, but in the world. He listened to those of us who begged him to stay and we were grateful.

Shortly before George left us, he told the Democratic Members of the California Delegation that we could count on him: He would run for reelection and would do his best to win. While he didn't get that chance, I will always

remember that he was willing to go full measure for America. Whether as a soldier in World War II or a soldier in the effort to support science, he served his country with valor, with intelligence and with distinction. I am grateful to him for his many kindnesses to me, his wit and his wisdom, for the example he made for younger Members of his House about integrity and commitment as well as for his love and dedication to his family.

I miss George a great deal. Despite all of the talented people working on Science Issues in this House, none of us can claim the experience, expertise and wise leadership that George gave the country in this arena. We will try to fill in the gaps his parting left. I, for one, feel grateful to have known him to have served with him. I feel lucky that I had the change to tell him how much I admired him while he was still living. I miss him and join with my colleague tonight in honoring his life and his contributions.

Mr. SENSENBRENNER. Mr. Speaker, America lost its foremost science advocate, a statesman, and a tremendous human being when my colleague and friend, George Brown, passed away. As a Member and later Chairman and Ranking Member of the Science Committee, George was a forceful and tireless advocate for science. Whether it was protecting a science account from attack or pushing the newest area of research, George was a true friend to the science community. I feel both sadness and inspiration when I look up to see George's likeness watching over the proceedings in the Science Committee's hearing room. Sadness at our loss but inspired to continue building upon the successes George made possible. I am hopeful that his portrait will serve as a constant reminder of George's commitment to our nation's science programs, his leadership, his friendship, his humor, and his compassion throughout his many years of service.

George's integrity and the strength of his word were never in doubt. He could be a forceful advocate when needed and a bipartisan friend when deserved. Perhaps what was most remarkable about George was that even after sitting through hundreds and hundreds of presentations by researchers around the nation, George never lost a genuine delight in hearing of new science breakthroughs that would revolutionize tomorrow's world. When tomorrow's scientists find their next breakthrough discovery, I know in my heart that George will delight in their achievement.

Although George served for eighteen terms in the House, a remarkable achievement in itself, I don't think he ever enjoyed looking back as much as he cherished looking ahead. Earlier this year, George remarked, ''I've thought that science could be the basis for a better world, and that's what I've been trying to do all these years.'' Certainly George made his own strong contribution to making this a better world.

I ask all Members, to keep George's spirit alive as we proceed with our responsibilities during this Congress—with his respect for this institution foremost in our minds and his joy of public service and his friendship in our hearts.

IN HONOR OF THE LATE GEORGE BROWN

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Under a previous order of the House, the gentleman from California (Mr. DREIER) is recognized for 5 minutes.

Mr. DREIER. Mr. Speaker, I would like to join with my colleagues in extending this time of special orders in honor of our great friend, George Brown. I have not had the opportunity to hear any of the statements other than the very eloquent one by the gentleman from Long Beach, California (Mr. HORN).

I will say scholarship and decency, which is what the gentleman from California (Mr. HORN) just raised, obviously are two words that come to mind. George Brown was also one of the kindest and warmest human beings I have ever known.

He regularly was on this side and stood there and would make interesting observations about the institution because, as we all know, he served longer than any other Californian here in the Congress. We were very pleased that he set that record, even though many of us, the gentleman from California (Mr. LEWIS) and I for a decade and a half tried to cut that short. In many ways, I am glad that we were not able to cut that short because he did so much for our State and the country.

I suspect that, during the hour, people talked about his involvement in the space program. I will tell my colleagues that, representing Pasadena, California, the home of the jet propulsion laboratory, along with the gentleman from California (Mr. ROGAN) is a very important thing. George Brown regularly provided the kind of inspiration that was needed by our constituents at the jet propulsion lab.

He often was the beneficiary, and I know that his widow Marta is following this so I should not raise it, but she may not have known he occasionally smoked a cigar. He would often take cigars from all of us here. I was pleased whenever I could to pass one to him, even though I know Marta was never pleased with the fact that we did pass our cigars to George. I know it did provide him with a great deal of pleasure.

I also want to say, as the gentleman from California (Mr. HORN) did, that, in the California delegation, he spent a great deal of time working to bring our delegation together. He had a very healthy view of his role in public service. I know there are many people who were always wringing their hands about this place at the prospect of maybe losing the next election.

One time Karen Tumulty, who is now a very prominent reporter with Time Magazine, in her early days with the Los Angeles Times in the 1980s, I remember her telling me she had gone up to Mr. Brown and talked about the fact that the Republicans were putting together this huge campaign against him. He was sitting behind us in the Speaker's Lobby, and she posed the question to him, why it was that he was not that concerned. He looked up and said, ''Gosh, the absolute worst thing that could happen is I could lose the election.'' Meaning that he had a very healthy perspective on this place, what representative government was all about, and what public service was about.

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I will tell my colleagues that it is still, to this day, with a great deal of sadness that I think about the fact that we are no longer going to be seeing him in this chamber.

So I would like to say that I will miss him greatly, and my condolences go, as I know my colleagues have extended them, to his tremendously huge and wonderful family, the members we got to meet when we went to the service for George out in California and saw a number of them back here.

TRIBUTE TO THE LATE GEORGE E. BROWN, JR.

The SPEAKER pro tempore (Mr. WALDEN of Oregon). Under a previous order of the House, the gentleman from New Jersey (Mr. HOLT) is recognized for 5 minutes.

Mr. HOLT. Mr. Speaker, what a wise man, what a good man George Brown was. We have heard tonight of his efforts to create or strengthen various scientific institutions, the National Science Foundation, the White House Science Advisers, OSTP, the EPA, the Office of Technology Assessment, NASA. He advanced international scientific cooperation, energy conservation, alternative sources of energy, sustainable agriculture, peaceful uses of space. He advanced the cause of peace around the world.

I have long respected George Brown for these contributions as a scientist and as a Member of Congress before I got to know him. When I was a AAAS fellow in Congress in the early 1980s, George Brown served as a positive example to us fellows of how government policy could be used in the support and advancement of science. His personal enthusiasm and passion for science and for the people associated with the fields of science has left perhaps the most lasting impression of George Brown around the country.

And, Mr. Speaker, I will provide for the RECORD some of the remarks of other AAAS fellows who have shared with me their memories of George Brown.

George Brown understood the big picture of how science could benefit the world and how to construct government mechanisms and policy to appropriately support it. I believe no one in Washington had a better understanding of the role and the nature of science.

George Brown was a champion of science, but he was not an apologist for science. It was George who challenged both the scientific community and its policy advocates to be self-aware, yes, to be self-critical lest we continue to, in his words, develop an uncritical faith that where science leads us is where we want to go.

George Brown did not shy away from asking the tough questions. He pointed out that ''It is still difficult to draw a correlation between scientific and technological capability on the one hand and quality of life on the other.'' He reminded us that if we look at the world as a whole, it is not at all clear that advances in science and technology have translated into sustainable advances in the quality of life for the majority of the human race.

He warned us of the potential societal crisis fueled by a deteriorating public education system, unaffordable health care, ethnic polarization, urban violence, environmental degradation, and the lack of political courage and leadership necessary for decisive action on these matters. Representative George E. Brown, Jr. had that kind of courage and he demonstrated it in each of his 18 terms in this House. George Brown never took the easy or politically expedient way. What a model he provided for us.

Mr. Speaker, I yield to my good friend and colleague, the gentleman from California (Mr. FARR).

Mr. FARR of California. Mr. Speaker, I thank the gentleman for yielding to me, and I would like to add, Marta, that I felt that memorializing your husband, our colleague, in statuary hall, where he was surrounded by some of the greatest leaders of this country, was appropriate because in my mind George was as great as all of them and he should be in that hall. He is in this hall here tonight, because as long as someone is in our minds, they are here.

We have heard from his colleagues tonight. What a great father for the State of California. I do not think anybody understood what made California tick, what made California the center of so many excellences, the center of excellence for electronics, the center of excellence for the entertainment industry, the center of excellence for agriculture, and so many kinds of agriculture. Agriculture in the north and agriculture in the south, totally different. From row crops to forestry, to all kinds of diversity, he understood the diversity of the people who live in the great State of California.

When we talked to him, we realized that we were talking to someone who grasped the entire potential of California. I think he saw that defined through science and technology; that if we could take enough good minds and put those good minds to practical use on beautiful places, like the diversity, the geographical diversity, that we cannot help but solve problems. And those problems are not just solved for California, they are solved for the United States. And when they are solved for the United States, they are solved for the world.

Just a remarkable human being in our time. Every one of us was touched by him. I think that he was, indeed, one of the fathers of modern California, and for that we will forever remember him as one of the great statues of this great state.

TRIBUTE TO THE LATE GEORGE E. BROWN, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HUNTER) is recognized for 5 minutes.

Mr. HUNTER. Mr. Speaker, I am not going to use 5 minutes, because my colleagues have spoken much more eloquently than I could, and I also want to thank the gentleman from Wisconsin (Mr. RYAN) for delaying his long awaited special order to allow us to complete this California memory of George Brown.

I think that the centerpiece and the trademark of our democracy in this House of Representatives is civility. The ability of the Members of the House to have close quarters combat on values and on philosophy and yet remain civil to each other. And I think if there was anything that George Brown taught not only the delegation but the rest of the House it was civility.

He did all the things that my colleagues have mentioned. When we on the Republican side ran strong, tough races against him, the next time we saw him, he would be smiling, he would be beaming, he would be winning, and he would not hold it against you. It was an amazing lesson. I think it was a lesson that we all ourselves tried to emulate, and in that sense he threw a rock into the pond and caused a lot of ripples of civility. He helped us to be better to each other.

He was a guy with a great good sense of humor. I recall when we were working the Salton Sea project, which he was a real champion of, and he worked with the gentleman from California (Mr. LEWIS), the gentleman from California (Mr. BONO), the gentlewoman from California (Mrs. Bono), the gentleman from California (Mr. CALVERT), and myself on that project, and one day, on an extremely windy day, we went to the Salton Sea, which is fed by the most polluted river in North America, the New River, when the waves were about two feet high and had whitecaps, and we were to go out with the Secretary of the Interior Mr. Babbitt on these air boats and tour the Salton Sea.

As George and I walked down to our air boat, I noticed that our two seats were extremely low to the water. And I looked over at the Secretary of the Interior's air boat and he had a high seat that was about five feet off the water. And I asked a friend of mine, who was a native there in Imperial Valley, and George Brown was born in Imperial Valley, in Holtville, he was really a man of the desert, and I asked this friend of mine, do you want to go out? And he says, not on your life. He said, this is the most polluted stuff in North America. He said, you are going to be catching that stuff right in your teeth.

So I suggested to the fish and wildlife people, who were conducting the tour, that maybe George and I might be allowed to ride in the air boat that had the high seats. And, of course, we were denied that privilege. That went to Mr. Babbitt. So George says, looks like they have a little something less for us. They provided us with a single sheet of plastic. I think we were to pull up like a makeshift windshield to keep ourselves from getting too much of this pollution in the teeth.

We got lots of it that day. And here was George Brown, a guy who had immense prestige and political power, and could have been doing a lot more comfortable things than riding around in the Salton Sea with whitecaps coming over the stern of this little air boat, because he believed in this cause of cleaning up the Salton Sea. That was George Brown. A man of great civility, a man with great good humor.

And I like to think of George as being a real product of this country that he came from, this Imperial County, Imperial Valley. He was born in Holtville, the carrot capital of the world, where they do a lot of farming, where people are hard working Americans, they are open and straightforward, and they all seem to have a sense of humor. And I think that George acceded to that desert sense of humor in the best way, brought it to this House and this chamber, and helped to make us all better people and better representatives because of it.

So I want to thank the gentleman from California (Mr. FARR) and the gentleman from California (Mr. LEWIS) for putting on this very important service. George Brown is going to live for a long time in our hearts and I think in our actions, because I think we are all going to be a little better to each other. We are still going to have those tough differences, and I think that is good, but we have a democracy that is a model for the rest of the world because we are civil, and George Brown was a leader in civility.

TRIBUTE TO THE LATE GEORGE E. BROWN, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. RYAN) for delaying his special order to give us the opportunity to pay tribute to someone who in my short time here in the United States Congress was a mentor and a tutor.

George Brown made the Committee on Science fun. And I guess that is something that I should be admonished not to say, because in this House we are about the people's business and we are serious in doing that business. But what I found in George Brown is that he loved science, but he had a holistic approach to science. Even though his expertise or his advocacy or his interests might have fallen in one area of science versus another, he was open enough to be able to take those groups of us on the Committee on Science that had our own interests in perhaps ensuring that there was more unmanned

space flight than manned space flight, because I come from the manned space flight advocacy group with the Johnson Space Center and the shuttles that have been going back and forth, but he could explain to each of us the fact that there was value in whatever that we advocated; that science was holistic; that we all should be participating in it.

He could advocate for the space center and he could advocate for the real sciences, the earth sciences, which he was a strong proponent of. He was a person who was able to balance the interests of the members of the Committee on Science in explaining that we had a responsibility to promote this Nation as a world leader in all of the sciences. So this was not just a race to space, of which he had much more history than I would have had, but this was to be able to fulfill our promise and our responsibility in man's creativity with research and experimentation and outreach in the areas of science and physics and other areas that the Committee on Science covered.

I found that he had a wry sense of humor, he had a good sense of humor, he had an enormous sense of humor. And we could always rely upon ranking member Brown, for I did not have the privilege of serving with him as chairman, although that never got the best of him, but he would always, in a moment when it got too serious in our committee, there was ranking member Brown with the appropriate sense of humor to bring us all back to the reality that we are simply mere mortals and this too will pass.

To his family, to his dear family and his dear wife, we thank them in particular for sharing him for all these many years. I thank him particularly for his openness to then freshmen members in the class of 1995, the 104th Congress, the Congress that Democrats were not in control. There was a small class of 13 of us that came in as Democrats, and I was fortunate enough to secure a place on the Committee on Science. Mr. Brown served, even in my lowest ranking position, as a welcoming mentor and a person who was encouraging of the work that we had to do together on the Committee on Science.

I am grateful for his leadership and I was even more grateful to listen to the many colleagues who were able to share some of the wider ranges of George Brown, both his civility, his kindness, his concern about world peace, which I think is most insightful of the kind of man he was, and then to hear in the memorial service his commitment to politics, as Senator BOXER related how he provided her support in a very competitive race.

He was a man of his word. He was a man who showed great love for his Nation and great love for his avocation, which was a love of science and research.

□ 2145

I close simply to say that something very special comes to mind of Mr. Brown, and that is that he was a person that I thought exhibited the concept that all of us aspire to, that we are one human race. Before it became in vogue to talk about one race, maybe to talk about diversity, maybe to talk about openness and equality and opportunity, I could sense that, even though just knowing Mr. Brown starting in my first term of Congress, that he lived his life as being part of one human race. For he lived it on the floor of the House. He lived it in the Committee on Science. And, as I have heard from my colleagues, he has obviously lived it all of his political life.

I am thankful for that. And, for that reason, I owe a debt of gratitude for the fact that he served us and that he served this Nation. We will be forever grateful. Thank you, ranking member Brown, Chairman Brown, for your leadership.

TRIBUTE TO THE LATE GEORGE E. BROWN, JR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GOODLING) is recognized for 5 minutes.

Mr. GOODLING. Mr. Speaker, George and I, of course, served here together for 24 years. A more perfect gentleman you would not find. His humor was mentioned by several, and I would have to say that he had the best one-liners and the shortest one-liners that I have ever heard. Usually two or three words and he could crack you up pretty quickly.

But I have to tell my colleagues, George also had everybody in the House of Representatives believing that I have a chronic cold condition. He was on the fourth floor; and, of course, I got on the second floor. And I could smell the elevator coming and I was ready. Because, of course, it was not only George on the elevator. It was his famous cigar on the elevator with him.

Well, I get a violent migraine from cigar smoke. So every time the door opened, I would, of course, pull out my handkerchief, put it on my nose, and hold it over my nose until I got down. Everybody would say, ''Do you have a cold?'' ''Do you have a cold?'' ''Yes, I have a cold.'' And then we would get over to the trolley and I would wait to see where he was going to sit, and then I would go to the opposite end, depending on which end the wind was blowing. And sure enough, when we got to this side, of course, we had to get back on the elevator again; and I would pull out my handkerchief, ride on the elevator with the handkerchief over my nose. And everybody would say, ''Do you have a cold?'' ''Do you have a cold?'' ''Yes, I have a cold.''

So they are wonderful memories of George. And he would want us to be rather light in paying a tribute. Because, of course, as I said, he was a good humored man and it only took a couple of words until he had you laughing.

Mr. Speaker, I yield the balance of my time to the dean, the gentleman from California (Mr. LEWIS).

Mr. LEWIS of California. Mr. Speaker, I thank the gentleman very much for yielding by way of closing this wonderful time we have had together in tribute to our colleague, George Brown.

I mentioned at the beginning of my remarks earlier that George and I, although we had our differences politically from time to time, had so much more in common.

The fact that we often talked about being born on the wrong side of the tracks, he in Imperial County, and I was raised in San Bernardino. But shortly after in his youth, he was in Colton, considered by us, like my home, on the wrong side of the tracks. He and I shared our love and our pride as being alumni of the wonderful university in West Los Angeles, UCLA.

George also had this great passion for science but particularly for NASA. When I had the chance to work with NASA's programming in the VA-HUD subcommittee, George and I professionally spent a lot of time together and many times in the battle here on the floor to save the Space Station and the future work of NASA.

Beyond that, we had a great love for water. I remember George talking about riding in an innertube down the Alamo River where he had his first experience with the Salton Sea and his commitment to that project as a part of his youth but also as a part of his very intense and life-long love for the environment.

George kind of closed his days and my memory of him when Arlene and I went and visited Marta and George at their new home in San Bernardino where they had been there for a while but they built this huge, huge fish pond, the largest fish pond I have ever seen in my life and the first time, and I told friends of this, the first time I ever heard George even raise a doubt about his commitment for the environment.

Because suddenly, and he spent a lot of money for these fish, etc., and they were planning to have tea out there and watch the fish grow; and the birds from the outside began flying in in their natural way, and stealing his fish.

George was a brilliant, wonderful, talented guy and a reflection of the best of America's House, the people's House, the House of Representatives.

I appreciate all of my colleagues joining with us tonight and sharing this evening with Marta and her family.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. LIPINSKI) is recognized for 5 minutes.

(Mr. LIPINSKI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. BASS) is recognized for 5 minutes.

(Mr. BASS 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 Jersey (Mr. PALLONE) is recognized for 5 minutes.

(Mr. PALLONE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TRIBUTE TO AMERICA'S VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Wisconsin. Mr. Speaker, it is very fitting that I think this follows up after the tribute to George Brown, who was a veteran here for our country, because Thursday is Veterans Day. And Veterans Day is a day to honor great sacrifices, celebrate heroic victories, and it serves as a reminder that the daily freedoms many of us too often take for granted came at a very painful price.

It is a day of national respect and reflection that serves as an annual remind that we can never forget those who have allowed us to enjoy that which we have today. More than ever, we must rededicate ourselves to honor the lives and memories of those who served, fought, and too often died.

Quote:

With malice toward none; with charity for all; with firmness in the right, as God gives us to see the right, let us strive on to finish the work we are in; to bind up the nation's wounds; to care for him who shall have borne the battle, and for his widow, and his orphan, to do all which may achieve and cherish a just, and lasting peace, among ourselves, and with all nations.

Mr. Speaker, these words were taken from President Abraham Lincoln's second inaugural address and sadly read again just two months later over this author's grave.

The excerpt ''to care for him who shall have borne the battle, and for his widow, and his orphan,'' are now etched in stone on the plaque of the Veterans Administration Building in Washington, D.C., reminding us of the debt we owe to those who have defended our Nation in times of both war and peace.

From the smallest Wisconsin communities to the largest cities throughout our Nation, we have been blessed by those individuals who set aside their own aspirations to serve their country in defense of freedom and liberty.

Our duty is not only to ensure that parades take place, that heartfelt words of thanks are offered, nor is it only to fly our Nation's flag in honor of their service. It is more. It is our duty to care for the soldier and his dependents who continue to bear the effects of battle.

In our history, more than one million American men and women have died in defense of our Nation. It is staggering.

If these now silent patriots have taught us anything, it is that, because of the men and women who are willing to sacrifice their last blood and breath, the United States remains a symbol of freedom in a country whose ideas are still worth defending. Our veterans are the national heroes who define our American heritage.

Yet, in the spirit of our great Nation, they are unassuming heroes. They did not seek glory or praise. Their deeds will never be chronicled sufficient to their service. In large part, they were not people discontinued for military careers or tested in battle. They have largely been ordinary men and women who have accomplished extraordinary deeds.

We should ever be thankful that, for over 200 years, individuals of each generation, many from my own family, had been willing to put on uniforms and answer the call of their country, that they had been willing to risk their all to allow their children and grandchildren the opportunity to live in peace.

I would like to take this opportunity to single out just a few of the thousands of veterans I am so fortunate enough to represent. Veterans and other civic organizations in the district I represent, the First District of Wisconsin, recently nominated some of their members to be recognized and I am proud to also recognize their contributions here today on the floor of the House of Representatives.

Today, among the thousands I would like to recognize, are these men:

Frank Onti of Walworth, from the U.S. Navy; John Cameron of Mukwonago, from the U.S. Army; James Schmidt of Burlington, from the U.S. Navy; Dale Roenneberg of Brodhead, from the U.S. Army; Franklyn Condon of Brodhead, from the U.S. Army; Jack Frawley of Whitewater, from the U.S. Marine Corps; Edward DeGroot of Racine, from the U.S. Army; John Kreidler of East Troy, from the U.S. Army; Raymond Lewis, Jr., of Racine, from the U.S. Army; Robert Engstrom of Janesville, from the U.S. Army; Everett Shumway of Edgerton, from the U.S. Navy; Dan Ponder of Elkhorn, from the U.S. Army; Warren Welkos of Elkhorn, from the U.S. Marine Corps; John Tueting of Elkhorn, from the U.S. Marine Corps; Mario Maritato, a great guy, I know Mario very well, really a true hero in southern Wisconsin, of Somers, from the U.S. Marine Corps; Robert Flint of Kenosha, from the Marine Corps; Ted Dvorak, another great guy, of Kenosha, from the U.S. Navy; Cloren Meade of Beloit, from the U.S. Army Air Corps; and Arthur Gibbs of Beloit, from the U.S. Army.

How might we best recognize these American heroes, these who came from southern Wisconsin? We should pause to give them thanks for safeguarding our liberties. We should pledge to carry out the civic responsibilities of citizens living in a free country. And we should exercise those loyalties by demonstrating our respect for both our living veterans and those in their final resting places.

Mr. Speaker, it is so little to ask of us when they have given so much.

HMO'S NEED ACCOUNTABILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GREEN) is recognized for 5 minutes.

Mr. GREEN of Texas. Mr. Speaker, I appreciate the comments of my colleague from Wisconsin. I agree that, hopefully, we will all be out tomorrow evening so we can go home and celebrate our Veterans Day programs in our districts and honor our veterans because of their commitment to our country and our freedoms.

I am here tonight to talk about an amazing announcement today that literally made the headlines on newspapers all over the country.

What do the American people mostly Democrats and also a significant amount of Republican Members know that the Republican leadership does not seem to know? Well, that is an open-ended question and it may take more than my 5 minutes to answer, but I will do it as best I can.

We want doctors and patients, and not HMO bureaucrats, to make the medical decisions. Today one of the Nation's largest HMOs, United Health Group, took the first step in recognizing the error of their ways. They decided they would no longer review each treatment recommendation made by a physician.

With the active support of the American people and the HMO reform conference committee, hopefully this will just be the first company that will do that and will proceed to have some real true HMO reform.

One company in the insurance business recognized what Democrats and the American people have known for years is that the most qualified people to make medical treatment decisions are the patients and doctors who know the details of that specific case.

Before we claim victory, we have to recognize that this is only a first step and in some ways a very small step.

Instead of reviewing the cases as they come in, the United Health Care has decided to review their physicians once a year. This is much better, but it still raises some concerns. One of the problems can be, that in reviewing a doctor's treatment decisions in this manner, it may be nearly impossible to determine the case each doctor has and whether there is specific reason such as

treating a high-risk patient or children that led the doctor to prescribe more tests than another doctor.

Again, this is a first step and a good step, but we still have got a long way to go. Other HMOs need to follow United's lead and every HMO, including United, needs to commit to leaving medical treatment decisions to the doctors and the patients without interference.

This recent decision by United raises the broader question of HMO reform and whether it is still necessary if other HMOs follow United's lead. The short answer is yes. The truth is that most HMOs are good. Managed care is created to take the ever increasing cost out of health care. But what we have seen is that not only have they taken the cost out up until this year, but they have also taken the quality out.

According to United, they approved 99 percent of the claims that their doctors had recommended. So what they found out is that they created a bureaucracy that they were paying for, that they approved those claims.

What is so important is that the patients' bill of rights that this House passed on a very bipartisan vote is still needed to protect the population who find themselves in an HMO that may not be as responsive as United is or as realistic as United that actually looked at it and said, hey, it is not cost effective to continue to do this.

□ 2200

As long as the industry continues to operate in their unregulated vacuum, these nonresponsive HMOs will continue to pop up and take advantage of the unsuspecting consumers. The scariest part of this scenario is that these unsuspecting consumers will not know that they are in such an HMO until it is too late. There are a lot of laws in this country that are designed to protect the majority from a small percentage of offenders. Most of us would not think of taking money from a person in return for a service but then when they come to collect what they paid for, deny, or worse in some cases, even delay that service. But the HMOs accept the premiums from consumers, but then deny or delay benefits in the hope that the consumer, who is really now the patient, will just give up and go away. They need to be held accountable for these deplorable actions.

I have an example of a constituent in my district. If you are familiar with Houston, she lives in the north part of Harris County. She had an appointment with a specialist in her neighborhood near Intercontinental Airport in the Humble area twice and it was canceled by her HMO. Finally they assigned her to a specialist across town. She said it was just difficult for her to be able to have family take her across town when literally there was a hospital complex that was so close she could get to. Again, it was delayed twice and ultimately could be denied because of transferring her to a specialist across town.

No other industry enjoys the protection that the HMO industry does from Federal law under the ERISA act. With this shield they are able to ignore the needs of their patients and they are held accountable to nobody. What I hope we would do as a Congress would be to respond and hopefully the HMO conference committee that we have will be responsive, Mr. Speaker.

The SPEAKER pro tempore (Mr. TOOMEY). Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

(Mr. SMITH of Michigan addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

(Ms. LEE addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana (Mr. BURTON) is recognized for 5 minutes.

(Mr. BURTON of Indiana 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 Minnesota (Mr. MINGE) is recognized for 5 minutes.

(Mr. MINGE 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 North Carolina (Mr. JONES) is recognized for 5 minutes.

(Mr. JONES of North Carolina 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 Virginia (Mr. GOODLATTE) is recognized for 5 minutes.

(Mr. GOODLATTE addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

TIME FOR CONGRESS TO CLARIFY SCOPE OF EXECUTIVE AUTHORITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. METCALF) is recognized for 5 minutes.

Mr. METCALF. Mr. Speaker, there has been increasing controversy over executive orders and presidential proclamations since President Franklin Roosevelt's administration. The recent comments of President Clinton's aide, John Podesta, in U.S. News and World Report, give us even more reason to be concerned. Mr. Podesta, in a moment of explicit candor, outlines the President's plan to issue a whole series of executive orders and changes to Federal rules without consulting Congress.

Mr. Podesta goes further, saying, ''There is a pretty wide sweep of things we're looking to do and we're going to be very aggressive in pursuing it.'' That is the Podesta Plan.

Mr. Speaker, I am here today to issue a dire warning. There is a ''culture of deference'' in this Congress, and if we do not address this issue of executive lawmaking, it is a violation of our own oath of office. I am most deeply concerned about the Podesta Plan, to use executive orders and other presidential directives to implement the President's agenda without the consent of Congress. Executive lawmaking is a violation of the Constitution. Article I states that all legislative powers shall be vested in the Congress.

Sadly, Congress should not be surprised that this President's frustrated staff is trying to bypass Congress. We have seen this before. When the President issued his executive order on striker replacements, he attempted to do what had been denied him by the legal legislative process. The same was true when the President issued his proclamation establishing a national monument in Utah, a sovereign State.

Mr. Speaker, the framers expected national policy to be the result of open and full debate, hammered out by the legislative and executive branches. They believed in careful deliberation, conducted in a representative assembly, subject to all the checks and balances that characterize our constitutional system. Having broken with England in 1776, the founders rejected government by monarchy and one-man rule. Nowhere in the Constitution is the President specifically given the authority to issue these directives.

In the legislative veto decision of 1983, INS v. Chadha, the Supreme Court insisted that congressional power be exercised ''in accord with a single, finely wrought and exhaustively considered, procedure.'' The Court said that the records of the Philadelphia Convention and the State ratification debates provide ''unmistakable expression of a determination that legislation by the national Congress be a step-by-step, deliberate and deliberative process.''

If Congress is required to follow this rigorous process, how absurd it is to argue that a President can accomplish the same result by unilaterally issuing an executive order. Of course he cannot. The President's controversial use of presidential directives skirt the constitutional process, offend the values

announced by the Court in the legislative veto case, and do serious damage to our commitment to representative government and the rule of law.

It is time to clarify the scope of executive authority vested in the presidency by article II of the Constitution. The Supreme Court has failed to address this issue and it is time for Congress to invoke the powerful weapons at its command. Through its ability to authorize programs and appropriate funds, Congress must now define and limit presidential power.

This is the danger: The road to tyranny does not begin by egregious usurpations, but by those which appear logical; meant to gain public support. We must not be lulled into complacency, because later they will be aimed directly at our fundamental liberties and at our representative self-government.

My colleagues, eternal vigilance is still the price of liberty.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. NETHERCUTT) is recognized for 5 minutes.

(Mr. NETHERCUTT addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

URBAN SPRAWL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DUNCAN) is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, the current politically-correct, fad issue with the liberal elite is what is called urban sprawl. Those who are shouting the loudest about this are for the most part people who are very anti-private property or at least people who are very lukewarm about property rights. They are usually wealthy environmental extremists, and ironically they are the very people who are the most responsible for urban sprawl in the first place.

Today, the Federal Government owns about 30 percent of the land in this Nation. State and local governments and quasi-governmental units own another 20 percent, so that almost half the land is in some type of public ownership. The most disturbing things, however, are, number one, the very rapid rate in which government has been taking over private property in the last 30 or 40 years; and, number two, the governmental restrictions being placed on the land that remains in private ownership now.

I attended a homebuilders meeting a few years ago in which they estimated that 60 percent of the developable land in this country would be off-limits with strict enforcement of our wetlands laws. Also, the Endangered Species Act has stopped or delayed for years the development of roads that would have saved many lives and has stopped construction and driven up costs of many homes. And there is something called the Wildlands Projects which the Washington Post said is a plan by environmentalists to place under public ownership half the land that remains as private property today.

I know that to many people, the word ''development'' has become almost a dirty word. But home ownership has always been a very important part of the American dream. Are those of us who have homes now going to say to young couples and young families, ''Well, we have ours but we don't want you to have yours''? Are we going to tell young people in small homes now that they cannot someday move to a bigger home because we basically have to stop all development? Are we going to tell homebuilders and construction workers that they are going to have to find some other work, probably at much lower pay?

No one wants our beautiful countryside turned into strip malls or parking lots, but development can be done in beautiful, environmentally sound ways. Old, unsightly buildings or blighted areas can be greatly improved. We should stop the local government appetite for farms which they then turn into industrial parks and give land at bargain-basement rates, sometimes to foreign corporations.

Why do I say environmentalists have caused a great deal of urban sprawl, indeed most of it? Well, just think about it. When more and more land is taken over by government or restricted from development, that forces more and more people on to smaller and smaller pieces of land. It also drives up the price of the remaining developable land, which also forces more people into apartments, townhouses or houses on postage-stamp-size lots.

Big government, brought on primarily by our liberal elite, has also caused urban sprawl. Big government has given most of its contracts, favorable regulatory rulings, and tax breaks to extremely big business. This has driven many small businesses and small farms out of existence.

Now the environmental extremists are aiming at agricultural run-off or spill-off. Rigid Federal rules and red tape hit the small farmers hardest and keep driving them out, which of course inures to the benefit of the big corporate farms. When the Federal Government drives small businesses and small farms and even small hospitals out of existence, it drives more and more people into the cities and causes more and more urban sprawl.

We need to remember that private property is one of the main things that has given us the great freedom and prosperity that we enjoy in this country today. It is one of the main things that sets us apart from nations like the former Soviet Union and other starvation-existence type countries.

Tom Bethell in his new book, ''The Noblest Triumph,'' says, ''Private property both disperses power and shields us from the coercion of others.'' He quotes Pope Leo XIII in 1891 who wrote that the ''fundamental principle of socialism, which would make all possessions public property, is to be utterly rejected because it injures the very ones whom it seeks to help.''

Brian Doherty, in the November 4 Journal of Commerce wrote that ''if the anti-sprawl agenda became a truly powerful political force, we would have to obey the dictates of busybody politicians who think it better for us to live in a crowded, central city walk-up than to have our own house with a two-car garage and a nice quarter-acre lawn.''

We should remember that private property is good for the environment because people always take better care of their own property than they do of property in public ownership. We should realize, too, that if we really want to stop urban sprawl, we must stop this stealth-like abolition of private property so even more people are not forced into central cities and overcrowded suburbs.

Mr. Speaker, we should stop government takeover of property and people will then have both the freedom and the opportunity to spread out.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. HORN) is recognized for 5 minutes.

(Mr. HORN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.)

MANAGED CARE REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GANSKE) is recognized for 5 minutes.

Mr. GANSKE. Mr. Speaker, yesterday the newspapers across the country trumpeted a headline. Here is one from the Washington Post, similar to newspapers all across the country: HMO to Leave Care Decisions Up to Doctors. The subheading is United Health Care has 14.5 Million Clients.

The first three paragraphs read:

''United Health Care, one of the Nation's largest managed care companies, said yesterday that it will stop overruling doctors' decisions about what care patients should receive. The company, which covers 14.5 million people nationwide and more than 200,000 people in the District of Columbia, Maryland and Virginia, is abandoning a cornerstone of the managed care industry's cost containment strategy and one of the features most responsible for the outpouring of public ill will toward managed care. United says it is taking the final say out of the hands of managed care bureaucrats and returning it to the treating physician because requiring doctors to get prior authorization was costing more money than it saved.''

Now, think about this. This is the Nation's second largest HMO, in the

first place admitting, yes, we have been making medical decisions. And then in the second place saying, but you know what, we have found that that is not cost efficient. So we are going to allow the doctors to make the decisions.

Remember, the HMOs have said during the debate we had here a couple of weeks ago, ''Oh, no, we don't make medical decisions, we just make determinations of benefits.'' And then they said, ''But if you pass the legislation, it is going to cost so much more. Premiums will go up.'' And, guess what, one of the two cornerstones of the legislation that passed this House was on the determination of medical necessity, physicians and patients would make the decision.

☐ 2215

Now, the second largest HMO in this country is saying, hey, do you know what, we found out that it cost us more money to micromanage those decisions, so we are not going to do it anymore. That certainly undercuts their arguments about increases in premiums, does it not?

Mr. Speaker, on October 7, the House of Representatives sent a message to the Senate: Get real about protecting patients for all citizens from HMO abuses. We passed, remarkably, a bipartisan consensus managed care reform bill by the margin of 275 to 151.

The American public is now demanding real action on this issue. How do I know that? A recent survey. The Washington Post did a survey to better understand Americans' concerns. More than 2,000 people were asked 51 things that might be worrying them. Do Members know what the top worry in the public is today, by 66 percent of people who worry about it? To a great deal, according to the survey, their worry is that insurance companies are making decisions about medical care that doctors and patients should be making.

Do Members know what else the survey showed? The same thing between Democrats, the same thing between Republicans, the same thing between Independents. Do Members know what else the survey showed? It did not matter whether they were supporting Al Gore or Bill Bradley or George W. Bush, this was still number one on the public's mind.

So guess what we did during that debate? We voted on the Senate bill in the form of the Boehner amendment. What did the House do? It overwhelmingly defeated the Senate bill because it is a sham bill. That Senate bill in this House only got 145 votes and 284 votes against it.

Just a few days ago the House voted again. By a vote of 257 to 167, the House instructed conferees to support the House-passed bill, the Norwood-Dingell-Ganske bill. Why did the House have to do this? Because the Speaker appointed 13 GOP conferees, and only one of them voted for the bill that passed the House. When is my Republican leadership going to get it?

A new survey by the Kaiser Family Foundation showed that 85 percent of employers support emergency room provisions, and 94 percent of employers support the right to an independent review. Even on the right to sue, 60 percent of employers support the right to sue a plan, with support higher than that for employers of small businesses, and still above 50 percent for employers of firms with more than 5,000 workers.

Mr. Speaker, it is time to get real about managed care reform. Let us see if the conference can really come up with something real.

☐ 2320

ILLEGAL NARCOTICS

The SPEAKER pro tempore (Mr. TOOMEY). Under the Speaker's announced policy of January 6, 1999, the gentleman from Florida (Mr. MICA) is recognized for 41 minutes.

Mr. MICA. Mr. Speaker, I come to the floor late on a Tuesday night once again to talk about the issue of illegal narcotics. But before I get into the issue of illegal narcotics, I must follow up on some of the comments of my colleagues, and I am going to try to mesh my comments into part of the debate that we are having here in Congress as we wrap up the funding of our government. It does take 13 appropriations measures to fund our entire government. We have been through about nine of those bills. Really in most cases now we are down to the question of not how much more money to expend but how to operate programs. I am so pleased that my colleagues on the majority side, the Republican side, spent part of the time tonight talking about education and about some differences in philosophy. I think that is very important to particularly education.

I chaired the House Civil Service Subcommittee for some 4 years. If you want to find out where the bodies and the bureaucrats are in our Federal Government, just chair that panel for a short period of time and you will. I quickly found that there are about 5,000 people in the United States Department of Education. I also found out that about 3,000 of them are located just within a stone's throw of the Capitol building right here in the Washington metropolitan area. Then another 2,000 are located in the approximately dozen regional offices throughout the United States. It is no surprise that none of them are located in the classroom. It is also no surprise that they earn between 50 and over $100,000 apiece on average. They are very well paid and they are education bureaucrats. Their responsibility is to really provide the administration for some, it was 760 Federal education programs. We have narrowed that down to approximately 700. In addition to that, they are part of what I call the RAD Patrol. The RAD Patrol is regulate, administer and dictate.

Basically we found in our work on the Civil Service Subcommittee and again exploring what these individuals are doing, is basically they are again administering a mass of Federal programs and a mass of Federal regulations that are being pumped out. What that does in fact is it ties our teachers up in little knots, it ties our school boards and our States into bigger knots, and the last thing the teacher is able to do is teach. They have put so many constraints and requirements and reports and paperwork on our teacher, that if you talk to a teacher today, a teacher no longer has control of her classroom, his or her classroom, no longer has control over his or her agenda, no longer has discipline in the classroom and no longer has respect. All of that, I think we can trace back to this massive Federal bureaucracy.

A part of the budget battle right now is how those education dollars are spent. They still want to maintain on the other side of the aisle control of the entire education agenda from Washington. I do not think that has ever been the case. The best schools have always been parent and teacher and local community led. This is a very fundamental argument. Balancing the budget was probably one of the easier tasks. Of course, we took our wounded in that battle and were accused of all kinds of misdeeds, but in fact we did bring the country's budget into order, not by decreasing any programs, in fact, we have increased the money in most of these programs, including education, but by, in fact, limiting some of the increases in the programs that had astronomical amounts of increases, the revenue that was coming in was not equal to the money in increases we were giving out and we got ourselves into two and $300 billion deficits. Every pension fund, every trust fund was raided, and for 40 years that continued. It was not buying votes but it was giving out more money than was coming in the treasury and then taking from all of these funds, some of them even pension funds.

I oversaw some approximately 30 Federal pension funds out of about 36 or so that were totally without any hard assets. Every bit of money of the Federal employees had been taken out. In fact, that obligation to pay back just the interest on the money that has been taken from those funds amounts to about $40 billion and is projected to grow in the next 10 years to about $120 billion a year. It is, I believe, the fourth biggest budget item that we have, because there is no money in that. Everybody is upset about Social Security and they took basically all the money out of those funds, the hard cash put in certificates of indebtedness of the United States. Well, they did the same thing to the Federal employee pension funds.

You look at program after program, we have had battle after battle to try to get those programs in order. The highway trust fund. I serve on the Committee on Transportation and Infrastructure. The highway trust fund

was another fund that was abused. The 18.4 cents that you were paying into this fund to build highways and public infrastructure, that money was not really going in there. Some of it was not being spent to artificially, quote, go towards balancing the budget. Then money was also taken out of there and used for other purposes other than what the highway trust fund was set up for, and that cost tens of billions of dollars to straighten that out. We have had a heck of a battle in the House of Representatives to try to straighten that out. So whether it is pension funds, whether it is Social Security, whether it is the transportation highway trust fund, for 40 years they played a game with the American people. Now we are paying a penalty in trying to straighten that out. But we are trying to do it in a legitimate fashion.

I chair the Criminal Justice and Drug Policy Subcommittee of the House of Representatives. I try to speak at least once a week as the person who is responsible in the House in trying to help develop a national drug policy. I try to focus on that issue, get the Congress, Mr. Speaker, and my colleagues here and the American people to pay attention to what I consider the most serious social problem that we have, and certainly it is a criminal justice problem with our prisons nearly packed to capacity with some close to 2 million, 1.8 million Americans behind bars, some 70 percent of them there because they have been involved in some drug-related crime.

We have a horrible situation. As I mentioned, we have had over 15,000 deaths; 15,973 deaths were reported from drug induced causes in 1997, our latest figures. That is up from 11,703 in 1992 when this administration changed hands.

So we have a very serious national problem. This national problem also as far as narcotics is intertwined in this budget battle. As I say, we have 13 budget bills or appropriations measures that make up the total budget and appropriations to run the country. One of those funding measures is to fund the District of Columbia. We have an obligation under the Constitution since we established in 1790 the District of Columbia to fund the District of Columbia and act as stewards of our Nation's capital and the district that was set up.

□ 2330

Unfortunately, in some 40 years of control by the other side, the District of Columbia, which should, again, be a shining example for all Americans, the place of our national seat of government, a respected capital in the world turned into a city in disgrace, a city in despair.

When we inherited the District of Columbia in 1995, and I came in 1993 when the other side was in control, and controlled the House, the Senate, and the other body, and by wide majorities, and the executive office, of course, the presidency, they controlled the entire three major determiners of policy for the District of Columbia and for national policy.

But we inherited in 1995 a Nation's capital in disgrace. Part of the budget battle today is, and one of the pending items that has not been approved, the President has vetoed it several times, and he may veto it again, is funding for the District of Columbia.

I always like to cite from facts about the situation. I do not mean to do this in a partisan fashion. We inherited a responsibility here. We have had some 4-plus, going on 5 years of running the Nation's business, and also overseeing Federal policy towards the District of Columbia.

I cite from some articles about what we inherited. A Washington newspaper, July 27, 1994, this article said about public housing, and I will quote from the article, ''Hundreds of D.C. families live in deplorable conditions as a result of the Department of Housing and Urban Development's failure to properly monitor owners and inspect various properties,'' says a report by the D.C. accounting office. ''The study found that 292 HUD subsidized units at Edgewood Terrace in the Northeast section of the city, the District of Columbia, failed to meet standards, and even called some of the 114 occupied apartments unfit for human habitation.''

This is the type of situation we inherited. The public housing units were not fit for human habitation. In fact, the housing agency was bankrupt.

I spoke a minute ago about the taking of pension funds. Marion Barry, who was the chief executive, this report in the newspaper of November 9, Washington, 1994, states that there was $5 billion in unfunded police and firefighters pension liability which also was increasing costs.

The D.C. General Hospital was hemorrhaging in red ink, and there were other fiscal problems. It goes on to cite the situation with pension funds, the hospital, and other matters that we inherited, again, as the new majority.

The situation, I have cited this before, but even the morgue was a disaster. This report from early in 1996, again, a Washington paper, the Washington Post, reported, ''About 40 bodies are being stockpiled at the D.C. morgue because the crematorium broke down about a month ago, and the cash-strapped city government has no other way to dispose of the corpses.''

When the Republicans inherited, again, 40 years of their oversight of the District of Columbia, we were running approximately three-quarters of $1 billion in deficit that year that we inherited this mess. I am pleased that as a result of what we have done, not only with the national budget but also with the District budget, this is one of the first years that the District is nearly in a balanced budget situation.

We have not replaced all of the funds that have been taken from these various funds, just like we have not replaced social security or unfunded Federal employee pensions, but we have begun that process. My point tonight is we do not want to turn back, whether it is those programs that I have mentioned or other programs.

Another program I have mentioned tonight is the job training program. A Washington Post article of October 4, 1994, basically found that the city was spending a great deal of money and not training anyone. In fact, one of the reports we had was no one was trained in one year, and that in fact most of the money went for administration.

Another Washington Post article talked in 1993 about drug and alcohol treatment, something that, of course, is very much of interest to me and also to our Subcommittee on Criminal Justice, Drug Policy, and Human Resources. This is what we inherited: ''Its drug and alcohol treatment programs,'' the District, ''however were denounced as inadequate last month by Federal officials.''

They go on to talk about lack of a mental health commissioner for the past year, and other deficits in programs here.

Some of the worst examples of what we inherited as a new majority is this article from the Washington Post in April of 1995. With the city's financial situation in almost total bankruptcy, they did in fact treat the mentally ill children in this fashion. Let me read this from the article:

''Some mentally ill children at the District's St. Elizabeth's Hospital have been fed little more than rice, jello, and chicken for the last month after some suppliers refused to make deliveries because they have not been paid.'' This is, again, part of what we inherited here in the District.

I could go on. There are more and more of these articles about what we inherited in the District of Columbia. My point tonight is that the District of Columbia is now beginning to be in some order, brought into some order by the new Republican majority. This is not the time to turn back.

Tonight and this week we do not have an issue over dollars in the D.C. budget bill. We still have an issue, though, however, of policy. That policy difference is over a liberal approach to drug treatment, a liberal approach to needle exchange, a liberal approach to enforcing the laws about what are now illegal narcotics in the District of Columbia.

The administration would like to change the philosophy. They would like a liberal philosophy, a liberal needle exchange policy, liberalization of the narcotics laws in the District of Columbia. Our side, the majority, says no, we should not make that step, that we think it is the wrong step.

We have some good examples of what bad programs have done. I always cite just to the north of us Baltimore, which has had a liberal policy. That policy in fact has caused tremendous

problems for Baltimore. Baltimore has gone from some 38,000 addicts just several years ago, in 1996, according to DEA, to the most recent statistics by one of the city council members there where Baltimore now has somewhere in the neighborhood of one out of every eight citizens, and that could be anywhere from 70,000 to 80,000 people in Baltimore are now drug or heroin addicts.

I do not think we need to model liberal programs, liberal needle exchange programs, or a liberal program as far as drug laws and model it after Baltimore and have that in the District of Columbia. We have some 540,000 population here in the District. We probably have some 60,000 addicts, if we adopted that model and the same thing happened here in the District of Columbia.

☐ 2340

We do not think that, in fact, that is the way to go.

I have also cited in the past, and I have another chart here tonight, showing zero tolerance and a tough enforcement policy. Some folks do not like that. Some folks call for liberalization. They say the drug laws are too tough. But we find this New York City chart, look at index of crime. We have index of crimes and that is going down as the arrests and enforcement go up.

Not only do we have crime being reduced with tough enforcement with zero tolerance, the statistics on deaths are about as dramatic as any figures I have ever seen. There has been a 70 percent reduction in deaths since Mayor Giuliani took office. The early years of his taking office there were about 2,000 deaths, and in 1998 they are down to 629, a 70 percent reduction. Baltimore, again, a liberal drug policy, more liberal philosophy with their folks, has had 312 deaths in Baltimore in 1997, 312, the same figure, in 1998. And one can see what again a contrasting philosophy can do.

So we think that it is very important that we continue the fight. If the President wants to veto the bill again, many of us here have said let him veto the bill, but we insist on some of these provisions. Again, we do have the finances of the District in order. We have brought them in order. We have gone from a $700-plus million deficit just in the District, almost three-quarters of a billion when we inherited the District, to nearly a balanced budget in the District of Columbia.

We have reduced the number of employees from 48,000 to 33,000. We have put in new administration. Of course we had to put in a control board, some of the operations we had to privatize and some of them we had to reorganize. Programs are in order that were a disaster. Welfare and schools. They were paying some of the highest in taxes in the District of Columbia and some of the schools were the worst performing. Paying highest amount per capita, one of the highest in the Nation, and again getting some of the lowest results.

We personally think this paying more and getting less out of government is a bad approach and we would hate to see us take now a liberal policy and adopt it in place of a conservative policy, a zero tolerance policy when it comes to drug enforcement. Again, the statistics are pretty dramatic.

A lot of folks say that those in jail are there because they have committed some minor crime offense. That really is not the case. There are many myths that are relative to this war on drugs and the effort against illegal narcotics.

We had a study, one of the most recent studies completed in the United States was completed in New York by their judicial officers and they found roughly 22,000 individuals serving time in New York State prisons for drug offenses. However, 87 percent of them were actually serving time for selling drugs, 70 percent of those folks had one or more felony convictions already on their record. So 70 percent of those 22,000 individuals were already multiple felons.

Of the people that are serving time for drug possession, 76 percent were actually arrested for sale or intent to sell charges and eventually pled down to possession. So some of the folks that are in New York State prison are there who may be charged with more minor offenses but, in fact, have plea bargained down. And, in fact, some 70 percent of them have one or more felony convictions.

So we are not exactly dealing with people who are being put in prison for some minor drug offense. We are dealing with repeat offenders.

But the statistics do show in the manner in which this has been handled in New York that, in fact, this tough enforcement, zero tolerance does make a big difference and dramatically changes the lifestyle, as anyone who has visited New York or lives in New York can attest to.

The other myth that I like to dispel and will talk about very briefly again tonight is that the war on drugs is a failure. Let me repeat some charts if I may. I hear over and over that the war on drugs is a failure. The war on drugs is not working. Let us just take a minute and look at what has happened. This chart does show 1980 and the Reagan administration and the Bush administration through 1990, and the Clinton administration. We see in this long-term trend in drug use a continuing decline. And this is through the Reagan and Bush administration, a tougher policy, awareness campaign that was made, interdiction and source country programs that were properly funded.

We saw all of that come to an end in 1993 with the election of President Clinton and the new majority at that time in the House. Actually, the old majority. They controlled the House and the Senate, the Democrat side and the White House. One could almost trace the dismantling of the drug czar's office and he reduced that staff, and the Democrat Congress did, from 120 to some 20 individuals in the drug czar's staff. That would be the first blow. Then the next blow was of course the hiring of Jocelyn Elders who said ''Just say maybe'' to our young people.

The next thing, if we looked at this chart and we added it in here, were the reductions in spending on interdiction and also on source country programs. Again, two Federal responsibilities. Stopping drugs at their source and then stopping drugs before they come into our country and into our borders.

In the international source country programs, Federal drug spending on these programs declined 21 percent in just one year after the Clinton administration took office. So to go back to the chart, we see a 21 percent decrease. In fact, just in the last year, in this year, we will get us back to in international programs to the level of 1992 in spending and putting back together the cost-effective stopping drugs at their source. If one does not think these programs are successful, we have spent very few dollars in the last 2 years in Bolivia and Peru, two cooperating countries under the leadership of President Banzer in Bolivia and President Fujimori in Peru. In Peru, we have cut the coca production by 60 percent in a little over 2 years. And in Bolivia, some 50 percent of the cocaine production has been reduced. And we can almost see the beginning of cocaine trafficking use and abuse in the United States, in fact we do see that and we see less and less of the product coming into the country. So we know a little bit of money, out of billions and billions expended on other programs and certainly enforcement, certainly imprisonment and certainly treatment, are very expensive programs. But keeping the drugs out of our country again is a Federal responsibility.

The interdiction programs, again, if we go back to the chart here and we see 1993, the Clinton administration reduced interdiction, cut interdiction some 23 percent 1 year after the Clinton administration took office.

So these charts and, again, we can bring up the exact charts. It would almost be nice to superimpose those. But international programs, again, in the Reagan-Bush years were at this level. Dropped down. We are bringing them back up to where we were 1991, 1992 equivalent dollars, source country programs.

☐ 2350

Source country programs, interdiction programs, the same thing. They cut dramatically.

Basically they stopped the war on drugs as far as any effort and put most of their effort into drug treatment programs. Most people would think that we have had a decline just of late or in that period in drug treatment programs. In fact, Federal drug treatment spending on treatment programs increased 37 percent from 1992 to 1998. It went from $2 billion to a little over $3 billion. Interestingly enough, even

with the new majority, we have increased from 1995 when we took control some 12 percent in spending, not tremendous increases of that past, but there has been a steady increase.

So contrary to some belief and some myths, we have been spending and increasing funding on treatment. But we know that dramatic reductions, again, in interdiction and source country programs cause problems. Those problems, of course, we are facing today in this budget battle.

Also on the agenda in Washington this week is how much money we put into additional assistance. Today's Washington Post has a story that berates the Congress a bit not moving forward on funding for Colombia.

I cited a success story the last couple of years in Peru and Bolivia where we have made great strides in curtailing illegal narcotics coming into the United States. In Colombia, we have a reverse situation.

The administration in 1993 began an effort to really close down our efforts to assist Colombia. First of all, they stopped information sharing. Next, they stopped overflights and also information sharing from those overflights. Where we shared information on shootdown policies, basically the administration shot down that policy. For some time, we were left without providing any assistance.

The next dramatically destructive step that was taken was the decertification of Colombia. Now, Colombia could be decertified as not fully cooperating on the war of drugs, which is a Presidential responsibility in his annual assessment as charged by law. But there is in that law a provision for a waiver which would have allowed us to get equipment, resources to Colombia. In fact, that was not granted for several years. Until 1998, absolutely nothing went to Colombia.

In the meantime, we have seen the disruption of Colombia. We have seen nearly a million people displaced in 1 year, 300,000. We have seen some 30,000 people slaughtered, some 4,000 to 5,000 police and public officials, Members of Congress, the Supreme Court slaughtered in Colombia.

Now we see the disruption of Colombia and that disruption extending up into the Panama isthmus and to other countries. This region produces 20 percent of the United States daily oil supply, and suddenly this has become a crisis.

The Washington Post asked today in the current budget negotiation, ''however, no one seems to be looking for money for Colombia.''

One of my responsibilities of chair of the Subcommittee on Criminal Justice, Drug Policy and Human Relations is to find out where the money has gone, investigate how it has been expended.

Last year, we appropriated some $287 million towards the antinarcotics effort in a supplemental package, again to try to get us back on track with Colombia and in the international arena and interdiction arena.

Today, this morning, and last week, I began a series of closed door meetings with the Department of State officials, DoD officials, in addition to public hearings that we have held, to find out where the money has gone.

Of the money, I have found that about $200 million actually ended up going to the account designated for Colombia. Of that money, to date, only about half of the $200 million has actually been expended.

Unfortunately, we have requested, and this has been a bipartisan request of the administration for the past 4-years, helicopters, equipment, resources, and assistance to Colombia so the Colombians can fight the Marxist insurgency that is financed by international narcotics, narcoterrorists. To date, unfortunately almost all of that equipment has not reached the shores of Colombia.

We are told that we had delivered this past weekend three helicopters. We have six other helicopters. We have nine helicopters in total of which, really, not any of them are fully capable of missions yet. Some still need armoring. To make matters worse, we found that the ammunition that we have requested year after year to provide to the Colombian national police and their enforcement folks that are going after the narcotraffickers had been shipped November 1, some few days ago. They could not even confirm this morning to me that that has arrived.

Now, we are willing to meet our budget obligations, and we will put into Colombia whatever money we need for Colombia to help get that situation under control. But we have repeatedly provided funding assistance. We have requested the administration to get resources, helicopters, ammunition, whatever it takes to go after the narcoterrorists.

I must report to the Speaker and the House of Representatives tonight that the track record is absolutely dismal of performance by the administration. So it is unfortunate that, even with a supposed request, and I asked this morning for a specific request of how much money the administration will be asking for, and we have heard anywhere from $1 billion to $2 billion, some folks have recommended as much as $1.5 billion to assist them over a several-year period, we still do not have, and I still do not have as of this morning a specific proposal from the administration.

I think this will be the December surprise. I think that once the Congress has finished its work in the next few days that the Congress will be presented with a price tag for this failure, failure to get the equipment there, failure to get the resources there, failure to spend the money that the Congress has already expended.

So we are going to take a very hard look at that and see how those dollars should be expended. We will try to provide additional resources. But we must do it mindful of that we are guardians of the public Treasury and that those dollars that we ask to appropriate in a fashion go to those specific projects, and that the administration follow through as directed by the Congress of the United States before we pour more money into this war. Again, we are committed to put in whatever dollars are necessary to bring this situation under control.

So we have a horrible situation getting worse. This last chart, as I close, shows the latest statistics showing from South America 65 percent of the heroin now an increase from 14 to 17 percent, the heroin coming from Mexico, and some 18 percent from southeast Asia. A picture that looks worse for Mexico, worse for South America, and worse for the American people and for the prospect of hard narcotics, in this case heroin, coming into our streets and our communities.

Finally, tomorrow we will meet with the Mexican officials, their attorney general, their other officials who will be here with a high level of working group to discuss the United States and Mexico efforts to get illegal narcotics through the major transit country, Mexico, under control. It is my hope that we can we can be successful, but we are also going to take a large look at Mexican cooperation, which has been lacking.

Mr. Speaker, hopefully next week we will have the opportunity with the Congress to come back and finish the narcotics report.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MATSUI (at the request of Mr. GEPHARDT) for after 3:00 today on account of official business.

Mr. PASCRELL (at the request of Mr. GEPHARDT) for today on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MCNULTY) to revise and extend their remarks and include extraneous material:

Mr. LIPINSKI, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. GREEN of Texas, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Mr. MINGE, for 5 minutes, today.

(The following Members (at the request of Mr. DUNCAN) to revise and extend their remarks and include extraneous material:)

Mr. BURTON of Indiana, for 5 minutes, today.

Mr. FOSSELLA, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, today.

Mr. GOODLATTE, for 5 minutes, today.

Mr. METCALF, for 5 minutes, today.

Mr. NETHERCUTT, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. GOODLING, for 5 minutes, today.

Mr. HORN, for 5 minutes, today.

Mr. GANSKE, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HOLT, for 5 minutes today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. HUNTER, for 5 minutes today.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. JACKSON-LEE of Texas, for 5 minutes today.

(The following member (at his own request) to revise and extend his remarks and include extraneous material.)

Mr. GOODLING, for 5 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. DREIER, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 923. An act to promote full equality at the United Nations for Israel; to the Committee on International Relations.

S. 1398. An act to clarify certain boundaries on maps relating to the Coastal Barrier Resources System; to the Committee on Resources.

S. 1809. An act to improve service systems for individuals with developmental disabilities, and for other purposes; to the Committee on Education and the Workforce.

S. Con. Res. 30. Concurrent resolution recognizing the sacrifice and dedication of members of America's nongovernmental organizations (NGO's) and private volunteer organizations (PVO's) throughout their history and specifically in answer to their courageous response to recent disasters in Central America and Kosovo; to the Committee on International Relations.

S. Con. Res. 68. Concurrent Resolution expressing the sense of Congress on the occasion of the 10th anniversary of historic events in Central and Eastern Europe, particularly the Velvet Revolution in Czechoslovakia, and reaffirming the bonds of friendship and cooperation between the United States and the Czech and Slovak Republics; to the Committee on International Relations.

ADJOURNMENT

Mr. MICA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 midnight), the House adjourned until today, Wednesday, November 10, 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:

5248. A letter from the Deputy Legal Counsel, Department of the Treasury, transmitting the Department's final rule—Community Development Financial Institutions Program (RIN: 1505–AA71) received November 1, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Banking and Financial Services.

5249. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting Determination and a Memorandum of Justification pursuant to Section 2(b)(6)(B) of the Export-Import Bank Act of 1945; to the Committee on Banking and Financial Services.

5250. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the Determinations and Justification pursuant to Section 2(b)(6)(B) of the Export-Import Bank Act of 1945; to the Committee on Banking and Financial Services.

5251. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Air Quality Implementation Plans; Rhode Island; Amendments to Air Pollution Control Regulation Number 9; Correction [AD–FRL–6471–6] received November 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5252. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Texas; Revisions to Consumer Products Rules [TX–106–1–7405a; FRL–6471–8] received November 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5253. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Removal of the Approval and Promulgation of Air Quality Implementation Plans; Connecticut; National Low Emission Vehicle Program [CT–054–7213; A–1–FRL–6471–7] received November 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5254. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans Oklahoma; Visibility Protection [OK–3–1–5201a; FRL–6470–4] received November 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5255. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District [CA 034–0181; FRL–6470–6] received November 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5256. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans Tennessee: Approval of Revisions to Knox County portion of Tennessee Implementation Plan [TN–105–1–9949a; TN–209–1–9950a; FRL–6469–4] received November4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5257. A letter from the Director, Office of Regulatory Management and Information, Environmental Protection Agency, transmitting the Agency's final rule—Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County [AZ 086–0018a FRL–6468–6] received November 4, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Commerce.

5258. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services (Transmittal No. 00–11), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

5259. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Japan [Transmittal No. DTC 147–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5260. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Greece [Transmittal No. DTC 149–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5261. 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 Australia [Transmittal No. DTC 110–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5262. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Germany [Transmittal No. DTC 139–99], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5263. 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 Italy [Transmittal No. DTC 157–99], pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

5264. 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 Japan [Transmittal No. DTC 131–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5265. 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 Australia, Bermuda, Canada, France, Germany, Italy, Japan, Norway, Sweden, and the United Kingdom [Transmittal No. DTC 161–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5266. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed Manufacturing License Agreement with Turkey [Transmittal No. DTC 85–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5267. 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 NATO and the Netherlands [Transmittal No. DTC 150–99], pursuant to 22

U.S.C. 2776(c); to the Committee on International Relations.

5268. 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 Japan [Transmittal No. DTC 151–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5269. 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 Thailand [Transmittal No. DTC 140–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5270. A letter from the Chief Counsel, Foreign Assets Control, Department of the Treasury, transmitting the Department's final rule—Blocked Persons, Specially Designated Nationals, Specially Designated Terrorists, Foreign Terrorist Organizations, and Specially Designated Narcotics Traffickers: Addition of Persons Blocked to Executive Order 13088—received November 2, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

5271. 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 the Republic of Korea [Transmittal No. DTC 154–99], pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

5272. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 13–158, ''Noise Control Temporary Amendment Act of 1999 '' received November 2, 1999, pursuant to D.C. Code section 1—233(c)(1); to the Committee on Government Reform.

5273. A letter from the Chairman, Defense Nuclear Facilities Safety Board, transmitting the report on commercial activities; to the Committee on Government Reform.

5274. A letter from the Staff Director, Federal Election Commission, transmitting the response to the Office of Management and Budget memorandum of July 12, 1999 regarding the inventory of commercial activities; to the Committee on Government Reform.

5275. A letter from the Executive Director, Japan-United States Friendship Commission, transmitting a report that the Commission does not engage in any contracting activities that would be covered under the FAIR Act; to the Committee on Government Reform.

5276. A letter from the Executive Director, Marine Mammal Commission, transmitting the Commercial Activities Inventory Report; to the Committee on Government Reform.

5277. A letter from the Office of the Director, National Gallery of Art, transmitting a copy of the Commercial Activities Inventory of the civil service positions in accordance with Public Law 105–270; to the Committee on Government Reform.

5278. A letter from the Chairman, National Labor Relations Board, Office of Inspector General, transmitting the Commercial Activities Inventory; to the Committee on Government Reform.

5279. A letter from the Deputy Assistant Administrator, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—Application of Marine Biotechnology to Assess the Health of Coastal Ecosystems: Request for Proposals for FY 2000 [Docket No. 991027290–9290–01] (RIN: 0648–ZA74) received November 2, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5280. A letter from the Deputy Assistant Administrator, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule—National Fisheries Habitat Program: Request for Proposals for FY 2000 [Docket No. 990927267–9267–01] (RIN: 0648–ZA71) received November 2, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5281. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Year 2000 Airport Safety Inspections [Docket No. FAA–1999–5924; SFAR No. 85] (RIN: 2120–AG83) received November 1, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5282. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule—Establishment of Class E Airspace; St. Michael, AK [Airspace Docket No. 99–AAL–10] received October 7, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5283. A letter from the Acting Regulations Officer, Social Security Administration, transmitting the Administration's final rule—Reduction of Title II Benefits Under the Family Maximum Provisions in Cases of Dual Entitlement (RIN: 0960–AE85) received November 3, 1999, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5284. A letter from the Secretary of Transportation, transmitting a proposed bill entitled, ''Surface Transportation Board Reauthorization Act of 1999''; jointly to the Committees on Transportation and Infrastructure, the Judiciary, and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TAUZIN: Committee of Conference. Conference report on H.R. 1554. 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 (Rept. 106–464). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BLILEY (for himself, Mr. MARKEY, Mr. TAUZIN, Mr. OXLEY, Mr. GILLMOR, Mr. DEUTSCH, Mr. PICKERING, Mr. ENGEL, Mr. BILBRAY, Mr. BURR of North Carolina, Mr. LARGENT, Mr. COBURN, Mr. SHAYS, Mr. FOSSELLA, Mr. EHRLICH, Mr. DAVIS of Virginia, and Mr. BLUNT):

H.R. 3261. A bill to amend the Communications Satellite Act of 1962 to promote competition and privatization in satellite communications, and for other purposes; to the Committee on Commerce.

By Mr. BISHOP:

H.R. 3262. A bill to provide for Federal recognition of the Lower Muscogee-Creek Indian Tribe of Georgia, and for other purposes; to the Committee on Resources.

By Mr. BISHOP (for himself and Mr. EVERETT):

H.R. 3263. A bill to require country of origin labeling of peanuts and peanut products and to establish penalties for violations of the labeling requirements; to the Committee on Agriculture.

By Mr. KUYKENDALL (for himself and Mr. CAMPBELL):

H.R. 3264. A bill to amend the Investment Company Act of 1940 to promote the establishment of small business investment companies; to the Committee on Commerce.

By Ms. BALDWIN (for herself, Mr. BARRETT of Wisconsin, Mr. KIND, Mr. KLECZKA, Mr. LUTHER, Mr. MARKEY, Mr. OBERSTAR, Mr. OBEY, Mr. WU, Mr. LARSON, and Mr. SENSENBRENNER):

H.R. 3265. A bill to terminate operation of the Extremely Low Frequency Communication System of the Navy; to the Committee on Armed Services.

By Mr. BROWN of Ohio (for himself, Mr. WAXMAN, and Ms. SLAUGHTER):

H.R. 3266. A bill to direct that essential antibiotic drugs not be used in livestock unless there is a reasonable certainty of no harm to human health; to the Committee on Commerce.

By Mr. CAMPBELL:

H.R. 3267. A bill to improve benefits for members of the reserve components of the Armed Forces and their dependents; to the Committee on Armed Services.

By Mr. COOK:

H.R. 3268. 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 Resources.

By Ms. DEGETTE (for herself and Mr. STRICKLAND):

H.R. 3269. A bill to amend title XIX of the Social Security Act to make technical improvements in the operation of the Medicaid Program, particularly with respect to the treatment of disproportionate share hospitals; to the Committee on Commerce.

By Mr. DIAZ-BALART (for himself and Mr. MCCOLLUM):

H.R. 3270. A bill to amend title 18 of the United States Code to prevent stalking of minors, and for other purposes; to the Committee on the Judiciary.

By Mr. DUNCAN:

H.R. 3271. A bill to amend title XVIII of the Social Security Act to expand the Medicare Payment Advisory Commission to 19 members and to include on such commission individuals with national recognition for their expertise in manufacturing and distributing finished medical goods; 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. FILNER:

H.R. 3272. A bill to amend the Immigration and Nationality Act to restore certain provisions relating to the definition of aggravated felony and other provisions as they were before the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996; to the Committee on the Judiciary.

By Mr. FILNER:

H.R. 3273. A bill to except spouses and children of Philippine servicemen in the United States Navy from bars to admission and relief under the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mr. GUTIERREZ:

H.R. 3274. A bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and title XVIII of the Social Security Act to provide protection for beneficiaries of group and individual health insurance coverage, group health plans, and MedicareChoice plans in the use of prescription drug formularies; to the Committee on Commerce, 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. HOLT:

H.R. 3275. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to require local educational agencies and schools to implement integrated pest management systems to minimize the use of pesticides in schools and to provide parents, guardians, and employees with notice of the use of pesticides in schools, and for other purposes; to the Committee on Agriculture.

By Mr. JENKINS:

H.R. 3276. A bill to suspend temporarily the duty on thionyl chloride; to the Committee on Ways and Means.

By Mr. LEVIN:

H.R. 3277. A bill to provide for interregional primary elections and caucuses for selection of delegates to political party Presidential nominating conventions; to the Committee on House Administration.

By Mr. LUCAS of Oklahoma:

H.R. 3278. A bill to amend the Federal Deposit Insurance Act and the Federal Home Loan Bank Act to provide for the payment of Financing Corporation interest obligations from balances in the deposit insurance funds in excess of a designated reserve ratio; to the Committee on Banking and Financial Services.

By Mr. MEEHAN:

H.R. 3279. A bill to prohibit the possession of a firearm in a hospital zone; to the Committee on the Judiciary.

By Mrs. MINK of Hawaii:

H.R. 3280. A bill to amend title II of the Social Security Act to provide for continued entitlement to child's insurance benefits of individuals who marry after attaining age 18 and who have Hansen's disease; to the Committee on Ways and Means.

By Mrs. MINK of Hawaii:

H.R. 3281. A bill to amend title II of the Social Security Act to provide for payment in all cases of lump-sum death payments; to the Committee on Ways and Means.

By Mrs. MORELLA:

H.R. 3282. 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. NEAL of Massachusetts:

H.R. 3283. A bill to amend the Internal Revenue Code of 1986 to revise the tax treatment of derivative transactions entered into by a corporation with respect to its stock; to the Committee on Ways and Means.

By Mr. PALLONE:

H.R. 3284. A bill to amend part C of title XVIII to provide for an improved methodology for the calculation of MedicareChoice payment rates; 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. SESSIONS:

H.R. 3285. A bill to authorize public-private partnerships to rehabilitate Federal real property, and for other purposes; to the Committee on Government Reform.

By Mr. TAYLOR of Mississippi:

H.R. 3286. A bill to continue coverage of custodial care under the military health care system for certain individuals during fiscal year 2000; to the Committee on Armed Services.

By Mr. WEINER (for himself and Mr. CHABOT):

H.R. 3287. A bill to amend the Public Health Service Act to provide for demonstration projects in which nurses and other health care professionals in hospital emergency rooms and other sites provide specialized assistance to victims of sexual assault and interpersonal violence; to the Committee on Commerce.

By Mrs. WILSON (for herself and Mr. UDALL of New Mexico):

H.R. 3288. A bill to authorize the acquisition of the Valles Caldera, to provide for an effective land and wildlife management program for this resource within the Department of Agriculture, and for other purposes; to the Committee on Resources.

By Mrs. CHENOWETH-HAGE:

H.J. Res. 77. A joint resolution notifying the Government of Panama of the nullity of the Carter-Torrijos treaties and recognizing the validity of the Hay-Bunau-Varilla Treaty with respect to control of the Panama Canal Zone; to the Committee on Armed Services.

By Mr. YOUNG of Florida:

H.J. Res. 78. A joint resolution making further continuing appropriations for the fiscal year 2000, and for other purposes; to the Committee on Appropriations.

By Mr. THOMAS:

H. Con. Res. 221. Concurrent resolution authorizing printing of the brochures entitled ''How Our Laws Are Made'' and ''Our American Government'', the pocket version of the United States Constitution, and the document-sized, annotated version of the United States Constitution; to the Committee on House Administration.

By Mr. ROGAN:

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; to the Committee on International Relations.

By Mr. COX (for himself, Mr. HASTERT, Mr. ARMEY, Mr. DELAY, Mr. WATTS of Oklahoma, Mrs. FOWLER, Ms. PRYCE of Ohio, Mr. DAVIS of Virginia, Mr. GILMAN, Mr. DREIER, Mr. SPENCE, and Mr. LANTOS):

H. Con. Res. 223. Concurrent resolution expressing the sense of the Congress regarding Freedom Day; to the Committee on Government Reform, and in addition to the Committee on International Relations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMPSON of California (for himself, Mr. REYES, Mr. CUNNINGHAM, Mr. PITTS, and Mr. BOYD):

H. Con. Res. 224. Concurrent resolution calling upon the President to issue a proclamation recognizing the 25th anniversary of the end of the Vietnam era and commemorating the service and sacrifice of the men and women who, as members of the Armed Forces or as civilians, during that era served the Nation in the Republic of Vietnam and elsewhere in Southeast Asia or otherwise served in support of United States operations in Vietnam and in support of United States interests throughout the world; to the Committee on Veterans' Affairs.

By Mr. STUMP:

H. Res. 368. A resolution providing for the concurrence by the House with amendments in the amendment of the Senate to H.R. 2280.

By Mr. KUCINICH (for himself, Ms. WOOLSEY, Mr. HINCHEY, Ms. BALDWIN, Mr. OWENS, Mr. MARKEY, Ms. MCKINNEY, Mr. GUTIERREZ, and Mr. JACKSON of Illinois):

H. Res. 369. A resolution on reducing the risks and dangers associated with nuclear weapons in the new millennium; to the Committee on International Relations.

By Mr. PICKERING (for himself, Mr. WICKER, Mr. SHOWS, Mr. THOMPSON of Mississippi, Mr. TAYLOR of Mississippi, Mr. HASTERT, and Mr. LARGENT):

H. Res. 370. A resolution recognizing and honoring Walter Payton and expressing the condolences of the House of Representatives to his family on his death; to the Committee on Government Reform.

By Mr. SHOWS:

H. Res. 371. A resolution providing for consideration of the bill (H.R. 664) to provide for substantial reductions in the price of prescription drugs for Medicare beneficiaries; to the Committee on Rules.

By Mr. STARK (for himself and Mr. BROWN of Ohio):

H. Res. 372. A resolution providing for consideration of the bill (H.R. 1495) to amend title XVIII of the Social Security Act to provide for coverage of outpatient prescription drugs under the Medicare Program; to the Committee on Rules.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

280. The SPEAKER presented a memorial of the General Assembly of the State of Illinois, relative to House Resolution No. 303 encouraging and supporting Governor George Ryan's decision to immediately engage the Administrator of the United States Environmental Protection Agency in a dialogue towards meeting and resolving the technical challenges of using ethanol in Phase II RFG; that the dialogue shall include presentation of recent research data suggesting ethanol benefits and the request that the U.S. Environmental Protection Agency permit the continued use of ethanol under phase II of the RFG Program in a way that will not economically disadvantage Illinois' to the Committee on Commerce.

281. Also, a memorial of the General Assembly of the State of Illinois, relative to House Resolution No. 229 memorializing the United States Congress to pass H.R. 8; to the Committee on Ways and Means.

282. Also, a memorial of the General Assembly of the State of Illinois, relative to House Resolution No. 160 memorializing the Illinois congressional delegation to influence and guide the federal budgeting process for FFY 2000 and beyond to restore full funding for Social Service Block Grant/Title XX Program and incrementally increase funding for this essential program as future federal budget opportunities present themselves; to the Committee on Ways and Means.

283. Also, a memorial of the General Assembly of the State of Illinois, relative to House Resolution No. 95 memorializing Congress to take the steps to strengthen Social Security so that all Americans can be assured that the program will be there for them; to the Committee on Ways and Means.

284. Also, a memorial of the General Assembly of the State of Illinois, relative to House Resolution No. 228 memorializing the U.S. Congress to pass H.R. 2; jointly to the Committees on Education and the Workforce and Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. TAYLOR of Mississippi introduced a bill (H.R. 3289) for the relief of Janet Louise Ruehling; which was referred to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to the public bills and resolutions as follows:

H.R. 303: Mr. SCOTT, Mr. MARKEY, Mrs. LOWEY, Mr. MEEKS of New York, and Mr. WELDON of Pennsylvania.

H.R. 372: Mr. ENGEL and Mr. SMITH of New Jersey.

H.R. 382: Mr. MINK of Hawaii, Ms. BALDWIN, Mr. TOWNS, Mr. JACKSON of Illinois, Mr. PHELPS, and Ms. WOOLSEY.

H.R. 443: Mr. MOAKLEY, Mr. BASS, Mr. HASTINGS of Florida, Mr. MENENDEZ, Mr. HOLT, Mr. ANDREWS, Mr. WU, and Mr. FRELINGHUYSEN.

H.R. 453: Mr. UDALL of Colorado and Mr. WYNN.

H.R. 460: Mr. HOYER.

H.R. 475: Mr. ROMERO-BARCELO, Mr. FALEOMAVAEGA, and Ms. MCKINNEY.

H.R. 493: Mr. BARTON of Texas.

H.R. 534: Mr. JOHN and Mr. POMEROY.

H.R. 692: Mr. YOUNG of Florida.

H.R. 708: Ms. NORTON.

H.R. 721: Mr. SANFORD.

H.R. 742: Ms. HOOLEY of Oregon.

H.R. 750: Ms. HOOLEY of Oregon and Mr. FORBES.

H.R. 783: Ms. DUNN, Mr. CROWLEY, and Mr. HUTCHINSON.

H.R. 876: Mr. BURR of North Carolina.

H.R. 925: Mr. FARR of California.

H.R. 936: Mr. BARTLETT of Maryland.

H.R. 980: Mr. BOSWELL.

H.R. 1044: Mr. BUYER, Mr. COOK, Mr. GOODE, and Mr. SOUDER.

H.R. 1046: Mr. LAHOOD.

H.R. 1071: Mr. BAIRD, Mr. FALEOMAVAEGA, and Mr. HERGER.

H.R. 1111: Mr. FLETCHER.

H.R. 1163: Mr. KUCINICH.

H.R. 1168: Mr. OWENS.

H.R. 1215: Mr. WU.

H.R. 1226: Ms. SLAUGHTER and Mr. DAVIS of Florida.

H.R. 1238: Mrs. MALONEY of New York.

H.R. 1248: Mr. FORD.

H.R. 1275: Mr. FILNER, Mr. WELDON of Florida, Mr. MALONEY of Connecticut, Mr. TANCREDO, Mr. WEXLER, Mr. GALLEGLY, Mr. HORN, Mr. HOLT, and Mr. ANDREWS.

H.R. 1286: Ms. NORTON and Mr. RYAN of Wisconsin.

H.R. 1356: Mr. STUPAK.

H.R. 1478: Mr. KUCINICH.

H.R. 1504: Mr. PICKERING and Mr. MINGE.

H.R. 1525: Mr. GUTIERREZ.

H.R. 1594: Mr. SMITH of Washington and Mr. CLAY.

H.R. 1601: Mr. ISAKSON, Mrs. FOWLER, Mr. BASS, Ms. RIVERS, and Ms. STABENOW.

H.R. 1622: Mr. SCHAKOWSKY, Mr. PHELPS, and Ms. LEE.

H.R. 1625: Mr. TIERNEY and Mr. KANJORSKI.

H.R. 1671: Mr. MCNULTY.

H.R. 1681: Mr. THOMPSON of Mississippi and Mr. FATTAH.

H.R. 1775: Mr. WELDON of Florida, and Mr. THOMPSON of Mississippi.

H.R. 1814: Mr. FRANKS of New Jersey.

H.R. 1816: Mr. LANTOS and Mr. GILCHREST.

H.R. 1841: Mr. BLUMENAUER and Mr. OWENS.

H.R. 1871: Mr. THOMPSON of Mississippi.

H.R. 1896: Ms. EDDIE BERNICE JOHNSON of Texas and Mr. FOLEY.

H.R. 1899: Mr. MEEKS of New York.

H.R. 1917: Mr. SMITH of Washington.

H.R. 2233: Mrs. THURMAN.

H.R. 2241: Mrs. MEEK of Florida.

H.R. 2294: Mrs. MCCARTHY of New York.

H.R. 2298: Mr. THOMPSON of Mississippi.

H.R. 2335: Mr. NETHERCUTT, Mr. WYNN, Mr. OXLEY, Mrs. MYRICK, Mr. HOEKSTRA, Mr. PETERSON of Pennsylvania, and Mr. BOEHNER..

H.R. 2345: Mr. RANGEL.

H.R. 2372: Mr. BARR of Georgia, Mr. ISAKSON, and Mr. COMBEST.

H.R. 2376: Mr. GOODE.

H.R. 2412: Ms. CARSON, Mr. BURTON of Indiana, Mr. VISCLOSKY, Mr. ROEMER, Mr. HILL of Indiana, Mr. BUYER, Mr. PEASE, Mr. HOSTETTLER, and Mr. MCINTOSH.

H.R. 2420: Mr. VISCLOSKY, Mr. BISHOP, Mr. SIMPSON, Mr. MCDERMOTT, Mr. PITTS, Mr. LOBIONDO, Mr. MOLLOHAN, Mr. DAVIS of Illinois, and Mr. MENENDEZ.

H.R. 2498: Mr. STUPAK, Mrs. ROUKEMA, and Mr. SALMON.

H.R. 2512: Mr. FALEOMAVAEGA.

H.R. 2644: Mr. KUCINICH.

H.R. 2655: Mr. SESSIONS.

H.R. 2660: Mr. GOODE.

H.R. 2726: Mr. GOODE and Mr. RADANOVICH.

H.R. 2727: Mr. REGULA.

H.R. 2749: Mr. MORAN of Kansas.

H.R. 2815: Mr. LAMPSON.

H.R. 2831: Mr. OBERSTAR, Mr. FROST, Mr. DOYLE, Mr. WELDON of Pennsylvania, Mr. BARRETT of Wisconsin, and Mr. LAFALCE.

H.R. 2864: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. ACKERMAN, Mr. KIND, and Mrs. LOWEY.

H.R. 2906: Mr. PORTER.

H.R. 2939: Mr. THOMPSON of Mississippi.

H.R. 2966: Mrs. CHENOWETH-HAGE, Mr. CLEMENT, Mr. DAVIS of Virginia, Mr. DICKS, Mrs. NAPOLITANO, Mr. UPTON, Mr. BAIRD, Mr. BARR of Georgia, Mr. BERRY, Mrs. CAPPS, Mr. CHAMBLISS, Mr. COLLINS, Mr. CONDIT, Mr. DEAL of Georgia, Mr. DICKEY, Mr. GOODE, Mr. ISAKSON, Mr. LINDER, Mrs. MORELLA, Mr. PETERSON of Pennsylvania, Mr. RILEY, Mr. STEARNS, Mr. SWEENEY, Mr. WATKINS, Mr. WEINER, Mr. WOLF, and Mr. WU.

H.R. 3010: Mr. THOMPSON of Mississippi.

H.R. 3091: Mr. CANADY of Florida, Mr. LAHOOD, Mr. HASTINGS of Florida, Mr. BLUMENAUER, Mr. SANDLIN, Mr. WEINER, Mr. KUCINICH, Mr. BRADY of Pennsylvania, Mr. FROST, Mr. DIAZ-BALART, Mr. BENTSEN, Mr. DICKEY, Mr. KENNEDY of Rhode Island, Mr. KLINK, Mr. WYNN, and Mr. WEXLER.

H.R. 3100: Mr. GREENWOOD, Mr. LATHAM, Mr. QUINN, Mr. HORN, and Mr. REGULA.

H.R. 3107: Mr. OWENS, Mr. SANDERS, Mr. COYNE, and Mr. CAPUANO.

H.R. 3113: Mr. BARTON of Texas.

H.R. 3116: Mr. TALENT, Mr. HALL of Texas, Mr. HORN, Mr. EHLERS, Mr. KUYKENDALL, Mr. UPTON, Mr. SHAYS, Mrs. JOHNSON of Connecticut, Mr. GILCHREST, Mrs. THURMAN, and Mr. BOEHLERT.

H.R. 3142: Mr. BOEHLERT and Ms. MILLENDER-MCDONALD.

H.R. 3144: Mr. CONDIT, Mr. SISISKY, Mr. MATSUI, Mr. BOUCHER, Mr. CUMMINGS, and Mr. RAHALL.

H.R. 3148: Mr. PAYNE and Ms. DEGETTE.

H.R. 3159: Mr. KUCINICH.

H.R. 3173: Mr. BLUNT, Mr. NUSSLE, Mr. LUCAS of Oklahoma, Mr. MCHUGH, Mr. EVANS, Mr. LATHAM, Mr. OSE, Mrs. THURMAN, Mr. JOHN, Mr. FOLEY, and Mr. CANADY of Florida.

H.R. 3180: Mr. REGULA, Mr. DUNCAN, Mr. BILBRAY, and Mr. SAXTON.

H.R. 3192: Mr. QUINN, Mr. BROWN of Ohio, and Mr. STRICKLAND.

H.R. 3193: Mr. THOMPSON of California.

H.R. 3197: Mrs. LOWEY.

H.R. 3242: Mr. KLECZKA, Mr. GRAHAM, Mr. VITTER, Mr. BARRETT of Wisconsin, Mr. NETHERCUTT, Mr. NORWOOD, Mr. LATOURETTE, Mr. DEMINT, Mr. BACHUS, and Mr. DEAL of Georgia.

H.R. 3246: Mr. EWING.

H.J. Res. 41: Mr. GREEN of Texas.

H.J. Res. 53: Mr. MCKEON.

H.J. Res. 66: Mr. LARGENT, Mrs. MYRICK, Mr. COLLINS, and Mr. WHITFIELD.

H. Con. Res. 30: Mr. OSE.

H. Con. Res. 62: Mr. GREEN of Wisconsin.

H. Con. Res. 89: Mr. LIPINSKI.

H. Con. Res. 111: Ms. SCHAKOWSKY.

H. Con. Res. 152: Mr. MARTINEZ.

H. Con. Res. 169: Mr. PETERSON of Minnesota, Mr. WELDON of Pennsylvania, Mr. BLILEY, and Mr. WOLF.

H. Con. Res. 170: Mr. PETERSON of Minnesota, Mr. ROMERO-BARCELÓ, Mr. LIPINSKI, Mr. QUINN, Mr. SMITH of New Jersey, and Mr. WOLF.

H. Con. Res. 177: Mr. WAXMAN, Mr. HOLT, and Mr. OBERSTAR.

H. Con. Res. 186: Mr. CHABOT and Mr. SIMPSON.

H. Con. Res. 205: Ms. BERKLEY and Mr. GIBBONS.

H. Con. Res. 206: Mr. CARDIN and Mr. STARK.

H. Con. Res. 209: Mr. WEXLER, Mr. CAPUANO, Mr. THOMPSON of Mississippi, and Mr. PETRI.

H. Con. Res. 212: Mr. DOOLITTLE.

H. Con. Res. 216: Mr. ROTHMAN, Mr. BILIRAKIS, and Mr. WEXLER.

H. Con. Res. 218: Mr. UDALL of Colorado and Mr. MCNULTY.

H. Res. 146: Mr. COOK.

H. Res. 187: Mr. HOYER.

H. Res. 309: Mr. PAYNE, Mr. SMITH of New Jersey, Mr. OWENS, and Mr. KUCINICH.

H. Res. 332: Mr. DOOLITTLE.

H. Res. 340: Ms. LEE.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1300: Mr. WHITFIELD.

H.R. 2907: Mr. BILIRAKIS.

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PROCEEDINGS AND DEBATES OF THE *106th* CONGRESS, FIRST SESSION

Vol. 145 WASHINGTON, TUESDAY, NOVEMBER 9, 1999 *No. 157*

Senate

The Senate met at 9:31 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

NOTICE

If the 106th Congress, 1st Session, adjourns sine die on or before November 10, 1999, a final issue of the Congressional Record for the 106th Congress, 1st Session, will be published on November 30, 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 November 29. The final issue will be dated November 30, 1999, and will be delivered on Wednesday, December 1, 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.

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

In 1780, Samuel Adams said, If you carefully fulfill the various duties of life, from a principle of obedience to your heavenly Father, you will enjoy a peace that the world cannot give nor take away.

Let us pray.

Gracious Father, we seek to be obedient to You as we fulfill the sacred duties of this Senate today. May the Senators and all who assist them see the work of this day as an opportunity to glorify You by serving our country. We renew our commitment to excellence in all that we do. Our desire is to know and do Your will. Grant us a profound experience of Your peace, true serenity in our soul that comes from complete trust in You, and dependence on Your guidance. Free us from anything that would distract or disturb us as we give ourselves totally to You for the tasks and challenges of this day. In our Lord's name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable GEORGE VOINOVICH, a Senator from the State of Ohio, led the Pledge of Allegiance as follows:

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

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. VOINOVICH). The acting majority leader is recognized.

Mr. SPECTER. I thank the Chair.

SCHEDULE

Mr. SPECTER. On behalf of our distinguished majority leader, I have been asked to make the following announcements.

Today the Senate will resume consideration of the bankruptcy reform legislation with 1 hour of debate on the pending minimum wage amendments. Following the debate, the Senate will proceed to two rollcall votes at approximately 10:30 a.m. There are numerous pending amendments, and others are expected to be offered and debated during today's session. Therefore, Senators may anticipate votes throughout the day. Progress is being made on the appropriations issues, and it is hoped that those remaining issues can be resolved prior to the Veterans Day recess.

BANKRUPTCY REFORM ACT OF 1999—Resumed

Pending:

Kohl amendment No. 2516, to limit the value of certain real or personal property a debtor may elect to exempt under State or local law.

Sessions amendment No. 2518 (to amendment No. 2516), to limit the value of certain real or personal property a debtor may elect to exempt under State or local law.

Feingold (for Durbin) amendment No. 2521, to discourage predatory lending practices.

Feingold amendment No. 2522, to provide for the expenses of long term care.

Hatch/Torricelli amendment No. 1729, to provide for domestic support obligations.

Leahy/Murray/Feinstein amendment No. 2528, to ensure additional expenses and income adjustments associated with protection of the debtor and the debtor's family from domestic violence are included in the debtor's monthly expenses.

Leahy amendment No. 2529, to save United States taxpayers $24,000,000 by eliminating the blanket mandate relating to the filing of tax returns.

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.

Kennedy amendment No. 2751, to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage.

Domenici amendment No. 2547, to increase the Federal minimum wage and protect small business.

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.

Levin amendment No. 2768, to prohibit certain retroactive finance charges.

Levin amendment No. 2772, to express the sense of the Senate concerning credit worthiness.

LABOR–HHS APPROPRIATIONS

Mr. SPECTER. Mr. President, I wish to make a brief comment, if I may, on one of the items referred to in a statement by the majority leader about the appropriations process, which I think will be of interest to our colleagues and perhaps to others who may be watching on C–SPAN 2.

We had negotiations beginning at 4 o'clock on Sunday afternoon with officials from the White House, and we are trying to resolve those issues in a spirit of accommodation. With respect to the dollars involved, the bill which came out of the Appropriations Committee was $93.7 billion for the three Departments. That was $600 million more than the President's figure, and it was $300 million more than the President's figure on education.

I worked on a bipartisan basis with my distinguished colleague, Senator HARKIN. The bill was crafted with what we thought was the right dollar amount—frankly, the maximum amount—to pass with votes in substantial numbers from Republicans and an amount which would be acceptable to Democrats and to the President because it was somewhat higher than his figure and we emphasized increased funding for the National Institutes of Health.

The administration has come back with a figure of $2.3 billion additional, and Congressman PORTER and I made an offer yesterday to add $228 million, provided we could find offsets because it is very important that we not go into the Social Security trust funds. So that whatever dollars we add to accommodate the President's priorities—we are going to have to have offsets on priorities which the Congress has established. We are prepared to meet him halfway on priorities on dollars—we are going to have to have offsets on priorities which the Congress has established.

There is a much more difficult issue in this matter than the dollars, although the dollars are obviously of great importance, and the issue which is extremely contentious is what will be done on the President's demand to have $1.4 billion to reduce classroom size to have additional teachers.

The Senate bill has appropriated $1.2 billion which maintains the high level of last year's funding. When it comes to the issue of the utilization of that money, we are prepared to acknowledge the President's first priority of reduction of classroom size for teachers. But if the local school board makes a factual determination that is not the real need of the local school board, then we propose that the second priority be teacher training. If the local school board decides that is not where the money ought to be spent, then we propose to give it to the school board the discretion as to the spending to local education, as opposed to a straitjacket out of Washington.

The White House Press Secretary has issued a statement this morning saying that these funds could be used for vouchers, and that is not true. That is a red herring. To allay any concern, we will make it explicit in the bill that the President's concern about the use of these funds for vouchers will be allayed. We are prepared to make that accommodation, although there had never been any intent to use it for vouchers. However, we will make that intent explicit in the bill.

Behind the issue of classroom size and the President's demand is a much greater constitutional issue. That is the constitutional issue of who controls the power of the purse. The Constitution gives the authority to the Congress to establish spending priorities, and we have seen a process evolve in the past few years which does not follow the constitutional format. The Constitution is very specific that each

House will decide on a bill, have a conference, and send that bill to the President for his signature or for his veto; and if he vetoes it, the bill then comes back to the Congress for reenactment. But what has happened in the immediate past has been that executive branch officials sit in with the appropriators and are a part of the legislative process, which is a violation of the principle of separation of powers. Now, I must say that I have been a party to those meetings because that is what is going on. But I want to identify it as a process which is not in conformity with the Constitution. It is something we ought to change. When it comes to the power and the control, what we have seen happen in the last 4 years is that the President has really made an effort, and to a substantial extent a successful effort, to take over the prerogative of the Congress on the power of the purse.

When the Government was closed in late 1995 and early 1996, the Republican-controlled Congress was blamed for the closure. That, candidly, has made the Congress gun-shy to challenge the President on spending issues. Since that time there has been a concession to the President on whatever it is that he wants, sort of ''pay a price to get out of town'' when people are anxious to have the congressional session adjourn.

Speaking for myself and I think quite a few others in the Congress are not going to put on the pressure to get out of town. We are going to do the job and do it right. Senator LOTT held a news conference yesterday and was asked about the termination time. He said he thought it was possible to finish the public's business by the close of the legislative session on Wednesday, which is tomorrow, but it was more important, as Senator LOTT articulated, to do it right than get it finished by any arbitrary deadline. I concur totally with Senator LOTT. I think it is possible to get the business finished by the end of the working day tomorrow. But it is more important to get it right than to get it finished on any prescribed schedule. In modern times there is too much concern about getting out of town, than perhaps getting the job done right. But we are determined to get it done and to get it done right. If we can get it done by the end of business tomorrow, that is what our goal is. But we are not going to sacrifice getting it done right in order to be able to finish up by Wednesday afternoon to get out of town.

Mr. KENNEDY. Will the Senator yield for a question? Will the Senator yield for a question?

Mr. SPECTER. No, I will not yield here, but I will in just a minute.

What we have seen is the President's ultimatum. He says this issue on schoolteachers is nonnegotiable. That is hardly the way you get into a negotiation session. Then his Chief of Staff, John Podesta, said on Sunday that if the Congress wants to get out of town they are going to have to accede to the President's demands on teachers, to do it his way. I think that is not appropriate. Congress has the power of the purse under the Constitution. It is our fundamental responsibility on appropriations. We are prepared to negotiate, but we are not prepared to deal with nonnegotiable demands. We are not prepared to deal with ultimatums. We are going back into a session—I don't know whether I should call it a negotiating session or not, because the President talks about nonnegotiable demands. Frankly, I am prepared to meet that with a nonnegotiable demand, not giving up on our prerogative to make a determination as to how the money is to be spent and getting local control over a Presidential straitjacket.

Now I would be delighted to yield to my distinguished colleague from Massachusetts.

Mr. KENNEDY. I wanted to inquire of the desk what the Senate business was supposed to be? I was under the impression we were supposed to be, at 9:30, on the minimum wage.

The PRESIDING OFFICER. Does the Senator yield the floor?

Mr. SPECTER. I have concluded. I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask we extend the time. How much time did the Senator from Pennsylvania expend?

Mr. DOMENICI. What was the question?

Mr. KENNEDY. I asked how much time the Senator from Pennsylvania used?

The PRESIDING OFFICER. The Republican side has 19 minutes left.

Mr. KENNEDY. Just as a matter of inquiry, were taken out of the time of the debate. Is that correct?

The PRESIDING OFFICER. Taken out of the Republican time.

Mr. KENNEDY. OK. Mr. President, I yield myself 12 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I listened to the Senator from Pennsylvania's comments with great interest. I will mention very briefly in defense of the administration, although they can make the case quite well for themselves that if the Appropriations Committee had finished their business on time we would not be in this particular dilemma. Only four appropriations bills were actually completed on time for the fiscal year. So with all respect to our friend on the other side, if the appropriators had placed, particularly the HEW appropriations, first rather than last, I do not think we would be having these kinds of problems in the areas of negotiation between the President and the Congress.

Second, the basic program which the President has been fighting for in this negotiation is almost identical to what the Republicans supported last year. With all respect to the comments we have just heard, the fact is if the classes reach the goals, the 15 percent setaside for funding for smaller class sizes can be used to enhance the teacher training. If the school had already achieved the lower class size of 18, it would be used for special needs or other kinds of professional purposes.

So it is difficult for me to understand the frustration of the Senator from Pennsylvania when the Republican leaders all effectively endorse what the President talked about last year. If their position is not sustained, there are going to be 30,000 teachers who are teaching in first, second, and third grades who are going to get pink slips. I don't think the problem in education is having fewer schoolteachers teach in the early grades but to have more.

I want to make clear I am not a part of those negotiations this year, but I was last year. I know what the particular issue is. With all respect to those who are watching C–SPAN II, I want them to know the President is fighting for smaller class sizes as well as for better trained teachers. We have seen Senator MURRAY make that presentation and make it effectively time and again. I think it is something that parents support, teachers understand, and children have benefited from. No one makes that case more eloquently than the Senator from the State of Washington. But I certainly hope the President will continue that commitment. We have scarce Federal resources. They are targeted in areas of particular need. That is the purpose of these negotiations. I hope we can conclude a successful negotiation.

Mr. DOMENICI. Will the Senator yield on my time?

Mr. KENNEDY. On your time, yes.

Mr. DOMENICI. Just for an observation. He might want to answer it.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the truth of the matter is if schools want the new teachers, under the proposal of the distinguished chairman who just took to the floor to explain the obstinacy of the President, they can have the money for teachers. That is what he is saying. It is up to them. If they want all the money that comes from this appropriation used for teachers, they can have it. If they say, we don't need them, we don't want them, he is saying there is a second priority.

Frankly, I think that is excellent policy with reference to the schools of our country. I believe the Senator from Pennsylvania makes a good point. For the President to continue to say we are not going to get this bill unless we do it exactly his way leaves us with no alternative. We have some prerogatives, too. The fact is, if you read the Constitution, he doesn't appropriate; the Congress does.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just to respond, we have a need for 2 million teachers. We have scarce Federal resources. If the States or local communities want to do whatever the Senator from New Mexico says, all well and good. But we are talking about scarce Federal resources that are targeted in ways that have been proven effective in enhancing academic achievement and accomplishment.

I am again surprised. The Republicans were taking credit for this last year. I was in the negotiations. Mr. GOODLING and Mr. Gingrich—as we were waiting to find out whether the powers that be, the Speaker, was going to endorse this, when we were waiting and having negotiations—went out and announced it and took credit for it. They took credit for this proposal of the President.

I find it a little difficult to understand this kind of frustration that is being demonstrated here. But we will come back to this and Senator MURRAY can address these issues at a later time. I certainly hope the President will not flinch in his commitment to getting smaller class sizes and better trained teachers and after school programs. That is what this President has been fighting for. I hope he will not yield at this time in these final negotiations, after we have only had four appropriations that have met the deadline. Before we get all excited about these negotiations, if our appropriators had completed this work in time, we would not be here.

Mr. DURBIN. Will the Senator yield for a question?

Mr. KENNEDY. How much time do we have? I will be glad to yield.

The PRESIDING OFFICER. The Senator has 24 minutes.

Mr. KENNEDY. Good. I am glad to yield.

Mr. DURBIN. Mr. President, briefly, I ask my colleague, is it not true this appropriation for education was the last of the bills considered by the Appropriations Committee? Is it not true that we waited until the very last day to even bring up this issue of education, the highest priority for American families? Now we find ourselves trying to adjourn, stuck on an issue that could have been resolved months ago had we made education as high a priority on Capitol Hill as it is in family rooms across America.

Mr. KENNEDY. The Senator is absolutely correct. The Senator from Illinois, the Senator from California, and I know the Senator from Washington as well, had hoped—and I believe I can speak for our Democratic leader—this would be the No. 1 appropriation and not the last one. If we had this as the No. 1 appropriation on the issue of education, we would not have these little statements we have heard this morning. But it is the last one. That is not by accident; that is by choice of the Republican leadership.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Twenty-three minutes.

Mr. KENNEDY. Mr. President, I yield myself 7 minutes.

In a few moments, we will be voting on the minimum wage issue that is before the Senate. I want to review what the record has been over the last 2 years.

In September of 1998, we brought up the minimum wage issue, and were unable to bring that to a vote on the basis of the merits. The Republican leadership said no.

In March of 1999, we tried to bring up this issue. Again, we were denied an opportunity to vote on it.

In April of 1999, we brought it up again as an amendment on Y2K. We were denied an opportunity to have a full debate.

In July of 1999, we brought it up again, and again we were turned down.

Now we have the minimum wage legislation before us, and in a cynical move, the Republican leadership said: Even if you get the passage of the minimum wage, it ''ain't'' going to go any further; the President isn't going to see it; it is going to end.

It is a sham. Their effort is basically a sham. That is the position in which we find ourselves today.

We know Americans are working longer and harder. The working poor are working longer and harder than at any time in the history of our country. We know that over the last 10 years, women are working 3 weeks longer a year in order to earn the minimum wage and men are averaging 50 hours a week. These are some of the hardest working men and women in the country.

At the height of the minimum wage in the late 1960s, it had the purchasing power that $7.49 would have today. If we are not able to raise the minimum wage this year and next, its value will be at an all-time low—in a time of extraordinary prosperity in this country. That is fundamentally wrong.

A vote for the Republican amendment will not help working families. It is, in fact, an insult to low-wage workers. It robs them of over $1,200 as compared to the Democratic proposal, and it drastically undermines the overtime provisions in the Fair Labor Standards Act which has been the law for over 60 years.

The Republican proposal jeopardizes the overtime pay of 73 million Americans. The Republicans did not water down their own pay increase of $4,600. They are now watering down the increase in the minimum wage, and they are watering down overtime. On the one hand, they are giving an inadequate increase in the minimum wage and taking it back by cutting back on overtime. That is a sham. That is a cynical attempt to try to win support for working families from those who are trying to do justice for those individuals.

We can ask, What difference does an increase in the minimum wage make?

Cathi Zeman, 52 years old, works at a Rite Aid in Canseburg, PA. She earns $5.68 an hour. She is the primary earner in the family because her husband has a heart condition and is only able to work sporadically. What difference would an increase in the minimum wage mean to Cathi and her family? It would cover 6 months of utility bills for Cathi's family.

Kimberly Frazier, a full-time child care aide from Philadelphia testified her pay of $5.20 an hour barely covers her rent, utilities, and clothes for her children. Our proposal would mean over 4 months of groceries for Kimberly and her kids.

The stories of these families remind us that it is long past time to raise the minimum wage by $1 over 2 years. We cannot delay it. We cannot stretch it out. We cannot use it to cut overtime. And we cannot use it as an excuse to give bloated tax breaks to the rich.

Members of Congress did not blink in giving themselves a $4,600 pay raise. Yet they deny a modest increase for those workers at the bottom of the economic ladder. I do not know how Members who voted for their own pay increase but I do not know how Members who vote against our minimum wage proposal will be able to face their constituents and explain their actions.

It is hypocritical and irresponsible to deny a fair pay raise to the country's lowest paid workers. Above all, raising the minimum wage $1 over 2 years and protecting overtime pay is about fairness and dignity. It is about fairness and dignity for men and women who are working 50 hours a week, 52 weeks of the year trying to provide for their children and their families.

This is a women's issue because a great majority of the minimum-wage workers are women. It is a children's issue because the majority of these women have children. It is a civil rights issue because the majority of individuals who make the minimum wage are men and women of color. And it is a fairness issue. At a time of extraordinary prosperity this country ought to be willing to grant an increase to the hardest working Americans in the nation—the day-care workers, the teachers aides. They deserve this increase. Our amendment will provide it, and the Republican amendment will not.

Mrs. BOXER. Will the Senator yield for a question?

Mr. KENNEDY. I yield for a question.

Mrs. BOXER. I thank my colleague for yielding. I say to the Senator from Massachusetts how much I appreciate him pushing this forward and how important it is to all of our States. I bring out an article that ran in the paper yesterday and today about the status of children in my home State of California, by far the largest State. I want my friend to respond to these numbers because they really say it.

This is what it says:

Despite a booming economy that has seen a tide of prosperity wash over California in

recent years, nearly 1 in 4 children under 18 in the Golden State lives in poverty. . . .

Although the annual ''California Report Card 1999'' laments that so many children live in poverty, it paints an especially bleak portrait of a child's first four years of life.

Lois Salisbury, president of Children Now, says:

Among all of California's children, our littlest ones . . . face the most stressful conditions of all. . . .

At a time when a child's sense of self and security is influenced most powerfully, California deals them a [terrible] hand.

I say to my friend, this issue he is raising is so critical. We all say how much we care about the children. Every one of us has made that speech. Today the rubber meets the road. If you care about children, you have to make sure their parents can support them.

My last point is, and I will yield for the answer, I wonder if my friend has seen the New York Times editorial that says:

The Senate will vote today on a Republican-sponsored amendment to raise the minimum wage and they say sadly the Republicans are not content to do this good deed and go home. They have loaded the amendment with tax cuts that are fiscally damaging and cynically focused on wealthy workers. Almost all of the Republican tax cuts go to the wealthy.

One of the economists who looked at this said:

It would encourage the reduction of contributions made by employers to the pensions of the lowest paid workers.

Can my friend comment on the importance of this proposal to children and also this cynical proposal that our colleagues on the other side are presenting?

Mr. KENNEDY. The Senator has raised an enormously important point. Americans who are working in poverty, which is at the highest level in 20 years, are working longer and harder than ever. The men work 50 hours a week or more on average and the women work an average of 3 weeks more a year. They have less time—22 hours less—to spend with their children than they did 10 years ago. That is why this is a children's issue, as the Senator has pointed out.

On the issue the difference between the Republican and the Democratic proposals, the Republicans say that their proposal makes some difference for those individuals who are going to get an increase in the minimum wage over 3 years.

This is a raw deal for them. On the one hand, they give them an increase in the minimum wage, and on the other hand they take back the overtime for 73 million Americans. It is a cynical sham, and it is a cynical sham because the majority leader has said even if it passes, it will never go out of this Chamber. That is the attitude toward hard-working men and women who are trying to play by the rules and get along at a time when they have the lowest purchasing power in the history of the minimum wage and we have the most extraordinary prosperity. And then they insult these workers even further by adding a $75 billion tax break over 10 years. And then we just heard about the difficulty we are having in conference about $1 billion on education because they say we cannot afford to do things, but the same side is suggesting a $75 billion tax break. Where are they getting their money? So it is a cynical play.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. CRAPO). Who yields time?

Mr. DOMENICI. Mr. President, I yield 5 minutes to the Senator from Minnesota off our time.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. I thank the Senator from New Mexico.

Mr. President, I rise today to offer my enthusiastic support for the package of tax proposals introduced by Senator DOMENICI. I'm enthusiastic, in part, because it contains a provision that is very important to me—above-the-line deductibility of health insurance for individuals.

Over 40 million American workers didn't have health insurance in 1997. The number has increased in the last two years to 44 million. This is disturbing, but I believe there is something Congress can do to help without resorting to a national health care system.

Mr. President, when employers purchase a health plan for their employees, he or she can fully deduct the costs of providing that insurance, effectively lowering the actual costs of providing coverage.

However, when an employee purchases an individual policy on their own, they must do so with after tax-dollars. They don't have the ability or the advantage offered to employers to reduce the actual costs of the policy by deducting premiums from their taxes every year. Therefore, they often wind up without any health coverage at all.

Earlier this year, I introduced the Health Care Access Act, which would have ended this discrimination within the Tax Code and make health care available for many more Americans by allowing the full deduction of health insurance for those without access to employer-subsidized health coverage.

We have a tax code that discriminates against some, while favoring others. Clearly, this results in fewer people being covered.

The amendment before us today takes a slightly different approach, but its goal is the same—to level the tax-playing field. By allowing individuals without access to employer-sponsored health insurance, or those whose employers do not cover more than 50 percent of the cost of coverage, to deduct those costs regardless of whether they itemize or not, we can address a growing segment of our uninsured population by doing this.

Under this amendment, from 2002 to 2004, eligible employees can deduct 25 percent of costs, 35 percent in 2005, 65 percent in 2006, and 100 percent after that.

If there are no changes in the health care system and no significant downturn of the economy, we can expect the number of uninsured to reach 53 million over the next ten years. This translates into 25 percent of non-elderly Americans without coverage.

Forty-three percent of the uninsured are in families with incomes above 200 percent of the federal poverty level. Twenty-eight percent of the uninsured work for small firms and 18 percent of all uninsured are between the ages of 18 and 24.

The question that comes to mind is, if we're experiencing record growth in our economy and the unemployment rate is declining, why is the number of uninsured continuing to rise? The answer is costs.

In the event a small business can offer a health plan to its employees, many times it is at a higher cost to the employee than it would be if the employee were to have a job at a larger firm. In this instance, employees have to decide if they believe their health status is such that they can go without health insurance, or if they should spend after-tax dollars to pay for a larger portion of their health insurance. Here is where we have the difficulty.

Individuals employed by small businesses which can't afford to pay more than 50 percent of the monthly premiums for their employees should be able to have the same tax advantage as the employer in paying for their health insurance. Under our plan today, they will. In fact, because the tax deduction is what we call ''above-the-line,'' meaning if would be available to everyone—even if they don't itemize their taxes—we attack the most significant barrier to health coverage again, which is its costs, and move closer to eliminating all barriers to health coverage.

In other words, get more Americans covered by allowing them the deductibility of the costs.

I am also pleased that this amendment includes many other important components such as pension reform and small business tax relief.

We are talking about tax relief for small businesses, not the wealthiest as you hear from the other side of the aisle, but tax relief pinpointed at the hard-working Americans in this country who are also job providers.

Retirement income security is crucial for millions of American workers. This amendment reforms and enhances current pension laws to ensure workers will achieve income security upon retirement. It repeals the unnecessary temporary FUTA surtax, which has become a burden to many small businesses. The amendment allows millions of self-employed Americans to deduct 100 percent of their health insurance costs. This is a critical provision because 61 percent of the uninsured in this country are from a family headed

by an entrepreneur or a small business employee.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAMS. I ask for 2 more minutes.

Mr. DOMENICI. I yield the Senator 2 additional minutes.

Mr. GRAMS. In wrapping up, the amendment increases small business expensing to $30,000. This change alone means an extra $3,850 in tax savings for each small business in new equipment next year. This amendment also allows small business to increase the meal and entertainment expense tax deduction. The Work Opportunity Tax Credit has helped millions of Americans leave welfare programs and become productive workers in our economy. This amendment makes the WOTC permanent, so small businesses and former welfare recipients will continue to benefit from the Work Opportunity Tax Credit.

It seems unfair to me that in a time of prosperity we hear our colleagues on the other side talking about tax increases. Again, in their plan, they would impose new, even higher taxes. They talk about minimum wage; they are taxing and taxing and taxing those people as they enter the job market. What we need is a plan that will reduce taxes, not increase taxes.

America's small business is the key to our economic growth and prosperity. The health care, pension reform and tax relief measures included in this amendment will help small business continue to work for America and will allow millions of Americans to realize the American Dream.

Again, that is why I rise today to enthusiastically offer my support for the tax package proposed by Senator DOMENICI.

Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, how much time does each side have remaining?

The PRESIDING OFFICER. The Senator from New Mexico controls 11 minutes 40 seconds; the Senator from Massachusetts controls 13 minutes.

Mr. DOMENICI. How much time would you like, I ask Senator NICKLES?

Mr. NICKLES. Four or 5 minutes.

Mr. DOMENICI. I yield 4 minutes to Senator NICKLES.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, first, I commend my colleague from New Mexico for the work that he has done in providing a more realistic substitute. But the first vote we are going to have today is voting on a motion to table the Kennedy amendment. I urge my colleagues to vote against the Kennedy amendment for a lot of different reasons, one of which is that it dramatically increases the minimum wage—about 20 percent over the next 13½ months. That is a big hit for a lot of small businesses. I am afraid it will prevent a lot of people, low-income people, who want to get their first jobs—they may not be able to get them. Estimates by some of the economists, CBO, and others, are that it could be 100,000 people; it could be 500,000 people that lose their jobs. It is a big hit.

There are a lot of other reasons to oppose the Kennedy amendment. How many of our colleagues know it has a $29 billion tax increase, that it extends Superfund taxes? We do not reauthorize the Superfund Program, but we extend the taxes. Many of us agree we need to extend the taxes when we reauthorize the program, but not before and that is in there anyway.

There is a tax increase on business. I received a letter from all the business groups opposing it. It is practically an IRS entitlement program, so they can go after anything they want.

It deals with ''Noneconomic attributes,'' whatever that means, it is a $10 billion tax increase. It may sound good and some people say that it is just to close loopholes. But it is to give IRS carte blanche to go after anything and everything they want. We reformed IRS and curbed their appetite somewhat, and regardless of those efforts this would be saying: Hey, IRS, go after anybody and everybody.

There is also a provision in the Democrat proposal that hits hospice organizations right between the eyes.

I have put letters from outside organizations addressing this very issue on Members' desks so they may see it for themselves. I ask unanimous consent to print in the RECORD three letters from various hospice organizations.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION FOR HOME CARE,
Washington, DC, November 8, 1999.

DEAR SENATOR: The National Association for Home Care (NAHC) represents home health agencies and hospices nationwide. While generally speaking, NAHC is supportive of efforts to maintain a reasonable minimum wage, a proposed amendment to S. 625 creates serious concerns for hospices across the country.

The proposed amendment would create a civil monetary penalty for false certification of eligibility for hospice care or partial hospitalization services. This proposal would impose a civil monetary penalty of the greater of $5,000 or three times the amount of payments under Medicare when a physician knowingly executes a false certification claiming that an individual Medicare beneficiary meets hospice coverage standards. On its face, this provision is addressed only to those physicians that intentionally and purposefully execute false certifications. However, the impact of a comparable provision on the access to home health services, as added to the law as Section 232 of the Health Insurance Portability and Accountability Act of 1996, should caution Congress in expanding the provision to apply to hospice services.

Immediately after the physician community became aware of the 1996 amendment, physicians expressed to home health agencies across the country great hesitancy to remain involved in certifying the homebound status of prospective home health patients. The vagueness of the homebound criteria and the stepped up antifraud efforts of the Health Care Financing Administration brought a chilling effect to physicians. As a result, home health agencies reported that physicians became less involved with homecare patients rather than increasing their involvement as had been recommended by the Office of Inspector General of the U.S. Department of Health and Human Services.

We believe that a comparable physician reaction will occur if this provision of law is extended to hospice services. A recent study reported in the Journal of the American Medical Association indicates that many eligible people may be denied Medicare hospice benefits because the life expectancy of patients with a chronic illness is nearly impossible to predict with accuracy. Medicare requires that the patient's physician and the hospice medical director certify that the patient has no more than six months to live in order to secure entitlement to the Medicare hospice benefit. The foreseeable result of the proposed amendment would be to further discourage physicians from utilizing hospice services for terminally ill patients. The existing scientific and clinical difficulties in accurately predicting the life expectancy of a patient combined with the threat of additional civil monetary penalties will adversely affect access to necessary hospice services. The experiences with home health services indicate that physicians distance themselves from the affected benefit. While the standard of applicability relates to a knowing and intentional false certification, physicians will react out of fear of inappropriate enforcement actions.

There are already numerous antifraud provisions within federal law that apply to the exact circumstance subject to the proposed civil monetary penalties. These existing laws include even more serious penalties such as the potential for imprisonment for any false claim.

We would encourage the Senate to oppose this provision, generally, and in particular, because it is contained in a non-germane legislative effort to increase the federal minimum wage. There is no evidence that physicians engage in any widespread abuse of the Medicare hospice benefit. To the contrary, evidence is growing that hospice services are underutilized as an alternative to more expensive care.

Thank you for all of your efforts to protect senior citizens in our country.

Sincerely,

VAL J. HALAMANDARIS.

HOSPICE ASSOCIATION OF AMERICA,
Washington, DC, November 8, 1999.

DEAR SENATOR: On behalf of the Hospice Association of America (HAA), a national association representing our member hospice programs, thousands of hospice professionals and volunteers, and those faced with terminal illness and their families, I am requesting your support to reject a proposed amendment to S. 625 that would apply civil monetary penalties for false certification of eligibility for hospice care.

It is often difficult to make the determination that a patient is terminally ill (life expectancy of six months or less if the terminal illness run its normal course), because the course of terminal is different for each patient and is not predictable. In some rare cases patients have been admitted to hospice care and have improved so as to be discharged from the program. The determination regarding the terminal status of a patient is not an exact science and should not be judged harshly in retrospect.

In a recent edition of JAMA, The Journal of American Medical Association, researchers reported that the recommended clinical prediction criteria are not effective in a population with a survival prognosis of six

months or less. According to Medicare survival data, only 15 percent of patients receiving Medicare hospice survive longer than six months and the median survival of Medicare patients enrolled in hospices is under 40 days. This information demonstrates what has been well known by those working in the hospice community, the science of prognostication is in its infancy and physicians must use the tools that are available, medial guidelines and local medical review policies developed by the Health Care Financing Administration, as well as their best medical judgment.

Physicians can not be punished for possible overestimation of a terminally ill patient's life expectancy. The only ones to be punished will be the patients in need of hospice services whose physicians will be denied from enrolling appropriate patients, thus denying access to this compassionate, humane, patient and family centered care at the end-of-their lives.

Please reject the proposed amendment to S. 625.

Sincerely,

KAREN WOODS,
Executive Director.

FEDERATION OF
AMERICAN HEALTH SYSTEMS,
Washington, DC, November 8, 1999.

Hon. DON NICKLES,
Assistant Majority leader, U.S. Senate, Washington, DC.

DEAR ASSISTANT MAJORITY LEADER: The Federation of American Health Systems, representing 1700 privately-owned and managed community hospitals has generally not taken a position on the minimum wage bill. However, we find it necessary to object to an amendment that will be offered today during consideration of the bill.

Specifically, we are concerned with an amendment that will apparently address ''partial hospitalization'' issues. While the Federation supports the goal of improving the integrity of the Medicare program by addressing concerns with partial hospitalization, we oppose its attachment to non-Medicare legislation. Clearly, any amendment that reduces Medicare trust fund spending should either be used to enhance the solvency of the trust fund, or for other Medicare trust fund purposes.

We appreciate your consideration of our position.

Sincerely,

THOMAS A. SCULLY,
President and CEO.

Mr. NICKLES. From the Hospice Association of America:

. . . . I am requesting your support to reject a proposed amendment to S. 1625 that would apply civil monetary penalties for false certification of eligibility for hospice care.

I have a letter from the Federation of American Health Systems urging opposition to the Kennedy amendment. I have a letter from the National Association for Home Care, also in opposition. It says:

We would encourage the Senate to oppose this provision, generally, and in particular, because it is contained in a nongermane legislative effort to increase the minimum wage.

The foreseeable result of the proposed amendment would be to further discourage physicians from utilizing hospice services for terminally ill patients.

Do we want to do that? I don't think so. Certainly we shouldn't do it in this legislation. Let's have hearings to find out more about this. Let's do it in Medicare reform. Let's do it when we have a chance to know exactly what we are doing because this is strongly opposed by hospice organizations.

I encourage my colleagues to oppose it for all the above reasons. I urge them to vote yes to table the Kennedy amendment. We will move to table it at the appropriate time.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mrs. MURRAY. Mr. President, I rise in support of the Kennedy amendment that we will be voting on shortly. It is important to note that 59 percent of the over 11 million workers who would receive a pay increase as a result of this minimum wage are women—women, by and large, with children; women who, because the minimum wage is so low today, are working two, three, four jobs. Those losing out in the country today because of the lack of a minimum wage increase are our children. They are being left home alone. They aren't getting the attention they deserve. They are not getting the support they deserve. A vote for the Kennedy amendment is a vote for our children.

While I have the floor, I understand the Senator from Pennsylvania came to the floor this morning to question the President's constitutional authority to insist on reducing class size. I remind our colleagues, reducing class size is something we as Democrats have fought for, stood behind, and we stand behind the President in the final budget negotiations. This is not about constitutional authority. It is about making sure young kids in first, second, and third grade get from a good teacher the attention they need in order to read and write and do arithmetic. That is a bipartisan agreement we all agreed upon a year ago, $1.2 billion to help our local schools reduce class size.

To renege on that commitment 1 year later and to have language which takes that money and gives it to whatever else school districts want to use it for sounds good except we lose out. A block grant will not guarantee that one child will learn to read. A block grant will not guarantee that a child who needs attention will have it on the day he or she needs it. A block grant will not assure that our children get the attention they deserve and learn the skills they need.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mrs. MURRAY. I ask for an additional 30 seconds.

Mr. KENNEDY. Thirty seconds.

Mrs. MURRAY. Mr. President, what we as Democrats are going to stand strong for is a commitment we made a year ago to assure that every child in first, second, and third grade gets the attention they deserve. If our Republican colleagues want to add additional money to the budget for block grants, for needs in our schools that we agree are important, we are more than happy to talk to them about it. But we believe the commitment we made a year ago is a promise that should be kept.

I thank the Chair and yield the floor.

Mr. KENNEDY. How much time, Mr. President?

The PRESIDING OFFICER. The Senator from Massachusetts controls 10 minutes 34 seconds. The Senator from New Mexico controls 8 minutes 23 seconds.

Mr. KENNEDY. Mr. President, I yield myself 4 minutes.

I again thank the Senators from California and Washington for illustrating in very powerful terms what this issue is all about. It is about working women and families.

With all respect to my friend from Oklahoma, when we had an increase in the minimum wage a few years ago, the Republicans fought it. They said that it would harm the economy and adversely impact small business. In the measure I have introduced we have tried to provide some relief for small businesses and we have paid for it. Now we can't do that because we have some kind of offsets. Therefore, we can't do it.

The fact is, the Republicans are opposed to any increase in the minimum wage. That is the fact. They have been opposed to it even at a time of extraordinary prosperity. This minimum wage affects real people in a very important way, and there is no group in our society it affects more powerfully than women and children. They are the great majority of the earners of the minimum wage, and increasingly so.

These days parents are spending less and less time with their families. In the last 10 years, parents were able to spend 22 hours a week less with their families. Read the Family and Work Institute's report of interviews with small children who are in minimum-wage families. They are universal in what they say. They all say: We wish our mother—or our father—would be less fatigued. We wish they had more time to spend with us. We are tired of seeing our parents come home exhausted when they are working one or two minimum-wage jobs.

That is what this is about. It is about the men and women at the bottom rung of the economic ladder. Are they real? Of course they are real. I have read the stories. We know who they are. They are out there today, this morning, as teacher's aides in our schools. These teacher's aides are working with young children, our future, and yet they don't earn enough to make ends meet.

They are there in the day-care centers. We know that day-care center workers are often at the bottom of the pay scale, earning the minimum wage. As you can see from this graph the purchasing power of the minimum wage

has declined since the last increase. As their wages lose purchasing power, turnover in low paying jobs like child care attendants and those who are working in nursing homes, increases. When people are forced to leave these jobs, there is a deterioration in quality of the service day care centers and nursing homes can offer.

This is about the most important element of our society. It is about fairness. It is about work. We hear all of these speeches on the other side of the aisle about the importance of work. We are honoring work. We are talking about men and women with dignity who have a sense of pride in what they do and are trying to do better and are trying to look out after their families. They are being given the back of the hand by the Republicans.

Their proposal is a sham. It is a raw deal for these workers. On the one hand, they are dribbling out an increase in the minimum wage; on the other hand, they are taking away overtime for 73 million Americans, and in the meantime, they are giving tax breaks to the wealthiest individuals in our society. That is a sham. Beyond that, they say the minimum wage, if we are even fortunate enough to get it to pass the Senate, will never go to the President because the Republican leadership has made a commitment to whoever it might be that it will never go there. That is what we are up against.

The PRESIDING OFFICER. The Senator's 4 minutes have expired.

Mr. KENNEDY. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I say to my friend from Massachusetts that I can yell as loud as he. But today I won't do that because I believe we have a great bill and a great position.

The Republicans do support the minimum wage. In fact, they are going to vote for the minimum wage that I propose. That is, instead of a dollar coming in two installments, it will come in three, of 35 cents, 35 cents, and 30 cents. Frankly, there will be an overwhelming vote in favor of that.

In addition, we took the opportunity to give small business and some other absolutely necessary situations that need it tax relief. We chose in this bill to do that. Those have been explained fairly well. I will take a minute at the end of my remarks to explain them one more time.

I suggest that the Democrats are living in an era that has passed.

If they were here on the floor in the 1930s, they would have a case. They would have a case that the minimum wage is going to affect poor families supporting their children. That was the issue in the 1930s. But I suggest the best research today says that day is gone in terms of who is impacted by the minimum wage. It is more likely to impact a teenager than it is the head of a household. The fact is, 55 percent of the minimum wage applies to people between the ages of 16 and 24. The overwhelming number of those are teenagers in part-time jobs, working in McDonald's-type restaurants across America. They need these jobs. They don't even stay in the minimum-wage position very long, according to the research we have seen. If they work well and choose to follow the rules and the orders and do an excellent job, they are raised above the minimum wage rather quickly.

To put it another way, to show that the arguments about who benefits from the minimum wage are passe 1930 arguments, two-thirds of all minimum-wage people are part-time employees. The fact is, the argument that these are women heads of households is absolutely dispelled by reality. The best we can find out is that 8 percent of the minimum-wage employees in America today are women heads of households, not the numbers or the tenor and tone of the argument about the slap of the hand we are giving to those who work in America. Quite the contrary.

Our minimum wage reflects a sufficient increase to match up with inflation, and we permit many people an opportunity to get into the job market. In fact, we make permanent one of the best taxes we have, which is now there on an interim basis. It says if you hire minimum-wage workers out of the welfare system, and you want to take a chance because they aren't capable of doing the jobs and you need to train them, you get a credit for that. That is a very good part of the Tax Code. We make that permanent so it costs something and it uses up some of our tax money.

As to the argument of how big this tax cut is, it is 12.5 percent of the total tax package that the Republicans offered, which passed here and the President vetoed. It tries something very new and exciting. It says to Americans who want to buy their own insurance—because their employers don't furnish it—for the first time, they are going to be permitted to deduct the entirety of their health insurance. Heretofore, they were punished if they tried to buy it, penalized because they didn't get to deduct it while everybody else did. We also made permanent the allowance that the self-employed can take the insurance deduction. We raise that to 100 percent. Everybody knows that is good. Everybody knows that helps with the problem of the uninsured in America, and that is good.

So, for all the talk, the Republicans have come forward with a very good bill. I am very pleased that I suggested to the Republicans the basics of this bill, that we ought to do it in three installments. Some wanted to make it longer. Actually, I think this is exactly the right length of time. Add to that the kind of tax relief we have provided versus the tax increases on that side, and it seems to me there is no choice.

While everybody is clamoring to do something about the estate tax because it is a very onerous tax, as if to try to punish people, in a minimum-wage bill they raise death taxes and inheritance taxes. I don't care what kind of American they impose it on. We don't have to do that when we are reforming that system because it is somewhat confiscatory. I could go on, but if anybody has any doubt, the gross tax increase under the Democrat package is $12.5 billion over 5 years, and a $28.9 billion tax increase over 10 years. What in the world are we increasing taxes for at this point? To pay for a minimum-wage bill? Of course not. It is because they want other tax relief and they choose to raise taxes to give the benefit to someone else. There is sufficient surplus. This is a very small tax cut in our package—12.5 percent of what we perceived was adequate and what we could do about 4 months ago with the surpluses we have. The President proposed $250 billion, $300 billion in tax relief. In this bill, they raise taxes rather than take advantage of what we know is the right thing; that is, to reduce taxes in these economic times.

I reserve my remaining time.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 6 minutes 49 seconds. The Senator from New Mexico has 1 minute 51 seconds.

Mr. KENNEDY. I yield 3 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. The Senator from New Mexico said he wasn't going to yell. He got a little close to it. But when I hear the yells on that side of the aisle, it is usually related to their passion for helping the wealthiest among us.

The Senator from New Mexico says that the Democrats are living in the past because we want to increase the minimum wage. Well, I have news for the Senator from New Mexico. Compassion for the poorest in our society, those at the bottom rung of the ladder, that is a timeless value; that is a moral value; that is a religious value; that is a value we ought to be proud to have around here. That is not living in the past. Come to Los Angeles, I say to my friend from New Mexico, or look around your big cities. What you will notice is that the people who are living on the minimum wage are adults. We know that to be the fact. A majority of minimum-wage workers are adults—70 percent of them.

In the Democratic proposal, out of those who will benefit from this modest increase, 60 percent of them are women. So if you want to say that we are living in the past, you can say it all you want. But it isn't true.

We saw in September a very chilling story in the L.A. Times about the working poor in Southern California. The National Low-Income Housing Coalition shows that given the high cost of a two-bedroom apartment in L.A., a minimum-wage earner must work 112 hours per week in order to make ends meet.

In San Francisco, it is even worse. A person would have to work 174 hours at minimum wage in order to pay their bills. According to a recent study of the Nation's food banks, 40 percent of all households seeking emergency food aid had at least one member who was working. That is up from 23 percent in 1994.

Low-paying jobs, I say to my friend from New Mexico, are the most frequently cited cause of hunger today, according to this well-documented L.A. Times story.

The L.A. Times, by the way, is now owned by Republicans. So this isn't a question of yesterday, I say to my friend. It is a question of living today. They have made the same arguments every time we raised the minimum wage. The last time they said it would bring the economy down. We have never seen such a strong economy. If the people at the bottom rung are left behind, it is morally wrong and it is economically wrong. It makes no sense. Those are the folks who go out and spend what they earn and they definitely stimulate the economy.

So for anybody to say you are living in the past if you support a minimum-wage increase, they don't know what is going on today. I say that from my heart. I have respect for the Senator from New Mexico, but I think it is insulting to say one lives in the past for wanting to fight for those at the bottom rung of the economic ladder—those women and those children who are living in poverty.

I thank the Chair.

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 3½ minutes. The Senator from New Mexico has 1 minute 51 seconds.

Mr. KENNEDY. I yield a minute to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, to make a couple of quick points, I was terribly saddened to see as part of another bill that we have a further reduction in child care provisions, which is a major blow again to working families out there. We all know that quality child care makes a difference for these children. In the midst of all of this, we are obviously told you have to come up with some offsets to pay for the provisions in this bill, which we do.

Offsets always attract opposition from one quarter or another. But these are modest offsets to pay for the provisions in the bill. What is going to happen later today we are going to vote on $75 billion in tax cuts and 56 percent of them go to the top 20 percent of income earners, and there are no offsets—none.

One of the great contradictions is, we are being accused of not liking the offsets, the pays, from some of the provisions and simultaneously we ask our Members to vote for a provision in the bill or vote for the whole bill, including a $75 billion tax cut over 10 years with no offsets.

Let me underscore, as this millennium date of 50 days away approaches, those at the bottom of the economic rung—working people, the majority who receive the minimum wage and are working full time; they are women, they are Hispanic, they are black—deserve to get a fair shake out of this Senate. In a few minutes, we will have an opportunity to give them that fair shake by providing an increase in the minimum wage, allowing them to enjoy the prosperity of the booming economy.

I yield the floor.

Mr. KENNEDY. Mr. President, it is important to understand exactly what the situation is for our working poor. The number of full-time, year-round workers living in poverty is at a 20-year high: 12.6 percent of the workforce, says the Bureau of Labor Statistics, as of the last 3 days. That is the fact. People are working harder, and they are living in poverty. These are people who value work.

Second, the Bureau of Labor Statistics shows that, of those who will benefit from a minimum wage increase, 70 percent are adults over age 20, and about 30 percent will be teenagers.

If Senators come to Boston and talk to the young people going to the University of Massachusetts, they will find 85 percent of their parents never went to college and 85 percent of them are working 25 hours a week or more. That is true in Boston, in Holyoke, in New Bedford, and Fall River, and cities across the country. I don't know what Members have against working young people who are trying to pay for their education. We have 6 million working in the workforce, and we have 2 million working at the minimum wage. Why are we complaining about that?

The Republican proposal is a Thanksgiving turkey with three right wings. It has a watered-down increase in the minimum wage, it has a poison pill for overtime work, and it has juicy tax provisions for the rich. This Republican turkey is stuffed with tax breaks, and it does not deserve to be passed. Vote for the real increase in the minimum wage; vote for the Daschle increase.

Mr. LEVIN. Mr. President, as the most prosperous nation in the world, our minimum wage should be a living wage, and it is not. When a father or mother works full-time, 40 hours a week, year-round, they should be able to lift their family out of poverty. $5.15 an hour will not do that. A full time minimum wage job should provide a minimum standard of living in addition to giving workers the dignity that comes with a paycheck. The current minimum wage does not pay a fair wage.

I support the legislation introduced by Representative DAVID BONIOR in the House and Senator TED KENNEDY in the Senate which increases the minimum wage. This legislation, the Fair Minimum Wage Act, will provide a 50 cent increase to the minimum wage on January 1, 2000, and a second 50 cent increase on January 1, 2001. This would raise the minimum wage to $6.15 per hour by the year 2001.

The minimum wage increase passed in 1996 prevented the minimum wage from falling to its lowest inflation adjusted level in 40 years. The proposed minimum wage increase to $6.15 in 2001 would get the minimum wage back to the inflation adjusted level it was in 1982.

In this era of economic growth, raising the minimum wage is a matter of fundamental fairness. We must look around and realize that we have the strongest economy in a generation. However, even with our strong economy, the benefits of prosperity have not flowed to low-wage workers. A full time minimum wage laborer working forty hours a week for 52 weeks earns $10,712 per year—more than $3,000 below the poverty level for a family of three. The poverty level for a family of three is $13,880.

Some people are saying that it is not time for a minimum wage increase, that we just raised the minimum wage in 1996 and in 1997. According to the Bureau of Labor Statistics, since the last minimum wage increase of 1996–97, the national unemployment rate has fallen to 4.1%. Not only that, the unemployment rate has dropped in Michigan, it is now 3.4%—lower than the national rate. It is only right that we help these minimum wage earners when the economy is booming.

Retail jobs are often cited as the industry hit hardest by an increase in the minimum wage. However, according to the Bureau of Labor Statistics, 38,900 new retail jobs have been added in Michigan since the last minimum wage increase. Moreover, in Michigan, since September of 1996, 206,000 new jobs have been created. The opponents claimed that the 1996 minimum wage increase would devastate the economy, yet clearly, this has not been the case.

According to the United States Department of Labor, 60% of minimum wage earners are women; nearly three-fourths are adults; more than half work full time. Under the Fair Minimum Wage Act, approximately 243,000 Michiganders would get a raise. These hardworking Americans deserve a fair deal.

The Fair Minimum Wage Act will increase the real value of the minimum wage in 2001 to the purchasing level it was in 1982. It will generate $2,000 in potential income for minimum wage workers. This $2,000 will make an enormous impact on minimum wage workers and their families.

Opponents of the minimum wage have said that the minimum wage hurts low income workers. This is not the case. In 1998, seventeen economists, including a Nobel Prize winner, a former president of the American Economics Assn. and a former Secretary of Labor, wrote to President Clinton, supporting an increase in the minimum wage. These experts determined that

the 1996 and 1997 increases had a beneficial effect, not only on those whose earnings were increased, but also on the economy as a whole. In addition to directly impacting workers, billions in added consumer demand helped fuel our expanding economy in those years.

With a prosperous economy, it is only fair that we also reward those who are at the low end of the pay scale spectrum. These people do not always have the leverage to negotiate a fair salary. It is necessary that we act to ensure that they receive a livable wage.

Mr. JEFFORDS. Mr. President, I rise today in support of an increase in the Federal minimum wage. I strongly believe that the time has come to raise the minimum wage again and that we should raise the minimum wage by a $1.00 an hour increase over the next 2 years.

The minimum wage is not the only way—or even the best way—to give folks in need a helping hand to get out of poverty. But I do believe that it should at least keep pace with inflation. Unfortunately, that is not happening. Today's minimum wage is 19 percent below the 1979 level. To give you a better idea of what this means for working families, consider that a minimum wage employee working full time earns about $10,700 a year—more than $3,000 below the $13,880 poverty line for a family of three. Workers deserve better. At a time when our economy is booming, we should not allow this trend to continue. Instead, we must continue to raise the minimum wage to keep pace with the rising cost of life's basic needs

My home State of Vermont recently raised the minimum wage to $5.75 an hour in response to its awareness of the cost of living. Let's follow its lead, a dollar-an-hour increase in the Federal minimum wage will put $2,000 a year in the pockets of working families at or near the poverty line. And given that 2 years has passed since the last increase, small businesses have had the time to adjust. Although this money will not solve all the problems of the working poor, it will go a long way toward helping minimum wage workers obtain basic needs for themselves and their families.

In addition to raising the minimum wage, there are many other things that Congress can and should do to assist low wage workers and their families. We must continue to search out and support targeted solutions such as the Earned Income Tax Credit (EITC). The EITC provides some 20 million low-income households with a refundable tax credit. Last year, the EITC enabled a worker earning minimum wage, who was either a single parent or the sole wage earning parent of dependent children, to receive up to $ 3,816 in additional income.

Along with measures that will raise take home pay, I know that we can do more to assist low-income families with their basic needs. Over the past few years, an organization in Vermont called the Peace and Justice Center has examined how low wage workers and their families were faring in my home State. The Vermont Wage Gap Study showed that while we are enjoying one of the most extraordinary economic booms in the history of our country, thousands of workers in my home State are having great difficulty making ends meet. The study found that the cost of meeting basic needs is more than many of Vermont's low income workers are earning.

For example, the Vermont Job Gap Study indicated that child care and health care are among working families largest expenses. Over the past few years, I have been pushing for national child care legislation to assist these working families with their child care needs. On the health care side, we were able to enact the Children's' Health Insurance Program which is helping to improve children's health for working families who cannot afford health coverage for their children. In addition, we should help low income workers in obtaining health insurance. I am currently working on a proposal that would provide uninsured and under-insured workers with the money they need to buy health insurance.

But the predominant factor influencing an individual's ability to support his or her family is not to be found in the minimum wage or the tax code. Study after study has found it is education. Simply put, you earn what you learn. I urge my colleagues to work with me on continuing to pass legislation aimed at improving our educational systems, and job training programs. It is my hope that these efforts will improve the skills and employability of our workforce and will enable low-wage workers to obtain better paying jobs.

I would like to add that I think it is entirely appropriate that an increase in the minimum wage be accompanied by tax breaks for those who will have to shoulder higher wage costs, especially small employers. And I strongly favor several of the tax breaks in this amendment. In particular, I support acceleration of deductibility of health insurance costs for the self-employed; increasing the amount of equipment purchases that small businesses can deduct each year; and providing tax credits to employers who provide on-site child care. At the same time, some of the tax provisions bear little relationship to the impact of a minimum wage hike on small businesses. In addition, I am concerned that we have not had adequate time to explore the implications and effects of all of the tax provisions. My vote in support of this amendment should not be read as an endorsement of each and every tax provision, but rather reflects my fundamental belief that the time has come for a minimum wage increase.

Lastly, I would comment on the language in Senator KENNEDY's amendment increasing disclosure to participants of cash balance pension plans and prohibiting so-called benefit ''wear-aways''. This language is being offered in response to the conversion of hundreds of traditional defined benefit pension plans into cash balance or other hybrid arrangements. I believe that legitimate concerns have been raised that notices about the plan changes that were sent to participants have been insufficient. In fact, until recently many workers have been unaware that their plan was amended to significantly reduce the rate at which they are earning benefits. While pension law only requires employers to pay what an employee has actually earned under the plan, when these changes are made toward the middle of a worker's career, the effect can be devastating.

This legislation will help workers better understand what the changes in their plan mean for their retirement plans. It requires plan sponsors to give participants notice of the conversions in a more timely fashion, in plain English and on an individualized basis. In the words of my colleague Senator MOYNIHAN, this disclosure requirement helps to make cash balance conversions transparent for the plan participants. I feel this change is warranted and urgently needed.

But this amendment does more. It also prohibits an unfortunate pension practice called the benefit ''wear-away''. When some plans are converted, workers with long-years of service may not earn any benefits for a number of years. I believe this practice is unfair. There is no reason why an individual with 20 years of service should not earn any benefits while a younger worker earns benefits immediately. The language in this amendment will effectively prohibit wear-aways.

As we conclude the first session of the 106th Congress, I hold steadfast in my belief that Congress must do everything in its power to help working families. The time has come to raise the minimum wage and give the workers who are depending on it a better shot at self-sufficiency. I believe that a $1.00 increase over the next 2 years will certainly help. However, I also believe that a slower increase is better than none at all. Therefore if we do not have the votes in the Senate to pass a 2-year increase, I will also support a 3-year increase.

Mr. SARBANES. Mr. President, I rise in strong support of Senator KENNEDY's amendment to raise the Federal minimum wage. I am proud to be an original co-sponsor of the legislation upon which this amendment is based to raise the minimum wage 50 cents a year over the next two years, bringing it to $6.15 per hour by the year 2001.

For more than half a century, Congress has acted to guarantee minimum standards of decency for working Americans. The objective of a Federal minimum wage is to make work pay well enough to keep families out of poverty and off Government assistance.

Any individual who works hard and plays by the rules should be assured a living standard for his or her family that can keep them out of poverty.

If nothing is done during the year 2000, the real value of the minimum wage will be just $4.90 in 1998 dollars—about what it was before Congress last acted to increase the minimum wage in 1996. The proposed increase would restore the wage floor slightly above its 1983 level, still leaving it 13% below its 1979 peak. No one asserts that raising the minimum wage will correct every economic injustice, but it will certainly make a significant difference to those on the low end of the economic scale. We have the opportunity to enact what is in my view a modest increase to help curb the erosion of the value of the minimum wage in terms of real dollars, and it is an opportunity which we should not let pass us by.

Currently, a full-time minimum wage worker earns just $10,712—$3,000 below the poverty level for a family of three. In 1998, about 4.4 million wage and salary workers, paid hourly rates, earned at and below the minimum wage—about 1.6 million at the minimum rate and 2.8 million below the minimum. A dollar increase in the minimum wage would provide a minimum wage worker with an additional $2,080 in income per year, helping to bring that family of three closer to the most basic standard of living. This extra income will help a family pay their bills and quite possibly even allow them to afford something above and beyond the bare essentials.

According to the Department of Labor, 70 percent of workers who will benefit from an increase in the minimum wage are adults, 46 percent work full time, 60 percent are women and 40 percent are the sole breadwinners in their families. Mr. President, these are not the part-time workers and suburban teenagers many opponents of the minimum wage increase would have you believe.

After 30 years of spiralling deficits, we now have budget surpluses projected, unemployment is at a 25-year low, and inflation is at a 30-year low. However, despite this period of economic prosperity, the disparity between the very rich in this country and the very poor continues to grow. According to the Economic Policy Institute, projections for 1997 indicate that the share of the wealth held by the top 1 percent of households grew by almost 2 percent since 1989. Over that same period, the share of the wealth held by families in the middle fifth of the population fell by half a percent. In light of these estimates, consider that the Department of Labor predicts that 57 percent of the gains from an increase in the minimum wage will go to families in the bottom 40 percent of the income scale.

It is both reasonable and responsible for Congress to enact measures which provide a standard that allows decent, hard-working Americans a floor upon which they can stand. We did it back in 1996 when we approved, by a bipartisan vote of 74–24, a 90 cent increase in the minimum wage bringing it to its current level of $5.15 per hour, and it is appropriate to do it here again. With the economy strong, we have a responsibility to reinforce this basic economic floor for millions of American workers to prevent them from sliding further into the basement.

This is, and always has been, an issue of equity and fairness for working men and women in this country. I strongly urge my colleagues to support this important amendment.

Mrs. LINCOLN. Mr. President, I support the Minimum Wage Proposal offered by Senator KENNEDY because it is fair and responsible. It provides a minimum wage increase to 228,000 Arkansans and 11 million workers nationwide, most of whom are women. It provides important tax relief directly to small businesses to help defray costs of a wage hike. And, perhaps most importantly, it pays for the tax cuts by: offsetting tax adjustments on large estates valued at $17 million and above, which the Senate voted overwhelming to do in 1997; extending the tax imposed on corporate income for Superfund, which I hope will encourage Superfund reform, and closing corporate tax shelters, which Congress has been trying to do since Ronald Reagan was in the White House.

A $1 increase in the minimum wage over 2 years is needed to restore the purchasing power or real value of the minimum wage, which has been greatly diminished over the last 20 years by inflation. In the United States, 59% of workers who will gain from a wage increase are women; 70% are adults age 20 and over, and 40% are the sole breadwinners for their families. The bottom line—this proposal will generate $2,000 in additional income each year for full-time minimum wage workers. As a mother of two young children who balances the check book every month and shops at the supermarket each week, I honestly don't know how a single parent who makes $5.15 an hour can feed their family and provide other basic necessities for their children.

I am also very supportive of the tax relief provisions in this amendment which will help those who will be most affected by a minimum wage increase—small business owners and family farmers. This common sense package will expand access to health insurance by letting self-employed individuals deduct 100 percent of their health insurance costs, a proposal I have supported for many years. I believe providing 100 percent deductibility now to small business owners and independent farmers is more urgent today than ever as our country experiences one of the worst farm crises in recent memory. Furthermore, I have never understood why we deny a benefit to sole proprietors that is currently available to many large corporations.

This package also includes another priority of mine—estate tax relief for family owned-farms and small business. Too often those who inherit a business or family farm from a relative must liquidate all or a portion of the property just to pay the estate tax which is owed.

Another provision will help business owners provide child care assistance to their employees by allowing a 25% tax credit for qualified costs. In addition, this amendment will encourage investment in economically depressed areas like the Delta region in Arkansas and strengthen retirement security for workers by reducing small businesses' cost of setting up employee pension plans.

Finally, I am hopeful that extending the tax imposed on corporate income for Superfund will be an added incentive to roll up our sleeves and pass meaningful Superfund reform legislation. I have worked on this issue since I came to Congress in 1993. I and millions of Americans are still waiting for Congress to fulfill its responsibility. I am sorry that our former colleague Senator Chafee, who was very passionate about this issue, died before Congress addressed Superfund reform.

But before I yield the floor, I want to emphasize an important aspect of this plan that should not go unnoticed—it is paid for and does not threaten our government's ability to meet future obligations to Social Security and Medicare beneficiaries. Republicans and Democrats have knocked themselves out over the last year trying to blame each other for spending the Social Security trust fund, so I fail to understand how we can consider a proposal which costs $75 billion over ten years with virtually no means to pay for it. That is irresponsible and I can't support it.

In short, Mr. President, the Kennedy amendment is a common sense proposal that is good for both employers and employees and I hope my colleagues on both sides of the aisle will stand with me in supporting this legislation.

I thank my colleagues and yield the floor.

Mr. KERRY. Mr. President, since 1938 we have had a minimum standard we accept as the lowest possible wage in our society. Today we are engaged in debate about the need to raise that standard. The modest proposal before us seeks to raise the minimum wage by $1.00 over the next two years. Even then—even if we succeed in doing what is so obvious, so reasonable, and so fair—Mr. President the real value of the lowest acceptable wage will only reach what it was in 1982, over 17 years ago. We're not really talking about an increase here, we're talking about trying to keep pace, about making work pay, about restoring minimum wage workers to the purchasing power they had nearly two decades ago.

Mr. President, opponents of a minimum-wage increase argue that it increases unemployment rates for entry-level workers, thereby hurting the very

people it is meant to help. But this is not a radical proposal—as some Republicans claim—that will cause a dramatic spike in the unemployment rates and cripple small business. Numerous empirical studies, Mr. President, have found that recent hikes in the minimum wage have had little or no effect on job levels. A 1999 Levy Institute survey of small businesses revealed that more than three-quarters of the firms surveyed said their employment practices would not be affected by an increase in the minimum wage to $6.00. A September New York Times editorial reported that ''. . . a modest hike is not likely to cause higher unemployment, even among low-skilled workers. Indeed, jobless rates fell after the 90-cent minimum-wage hike of 1996–7.''

We have not in the past nor are we now advancing a radical proposal that will reverberate dangerously throughout our economy. We are merely considering a moderate increase in our Nation's wage floor, one that will bring us just back to where we were nearly 18 years ago.

And while the increase is a modest one, it is crucial to today's working families. A $1.00 increase in the minimum wage will affect 11.4 million workers. Full-time workers will make an additional $2,000 each year. Many minimum wage jobs do not provide pensions or health care. An additional $2,000 each year might mean the difference between being sick and getting treatment, the difference between a sickly child and a thriving one. An additional $2,000 each year might mean the difference between being hungry and being fed.

Currently, a full-time minimum wage worker earns $10,712 per year—an income well below the poverty line for a family of three or four. Increasing the minimum wage will bring workers wages up to $12,800 per year, an income still below the poverty line for a family of three. So while we refer to the minimum wage as the lowest wage acceptable in our society, we must acknowledge that even after we pass this modest increase, a full-time minimum wage worker cannot safely raise a family on his/her earnings.

Right now we are facing the greatest wage inequality since the Great Depression. Income inequality between the Nation's top earners and those at the bottom has been widening since the early 1970s. The strong economy and these generally prosperous times cause us to overlook the struggles faced by hard-working families. The growing wage gap between the rich and poor threatens our social fabric and the stability of our Nation. It is our job in the Congress to ensure that stability is maintained—that hard-working individuals are paid a fair wage—that working families can afford the basic necessities of life—that we are the kind of country that values work—and which values the contributions of each working American. It is time we meet that responsibility.

Mr. FEINGOLD. Mr. President, I rise today to urge my colleagues to support efforts to increase the federal minimum wage by adopting the amendment offered by the Senator from Massachusetts, Mr. KENNEDY, the Fair Minimum Wage Act of 1999. This important amendment will provide American laborers with a 50-cent increase to the minimum wage on January 1, 2000, and a second 50-cent increase on January 1, 2001. This modest increase, which would raise the minimum wage to $6.15 per hour, will help more than 11 million lower income Americans.

Our country's economy is growing. Its economic vitality and the changes wrought by welfare reform have resulted in a better life for many working people—unless those workers are minimum wage workers, anchored to the bottom of the wage scale.

The truth is, even though the economy is roaring, wages at the bottom are stagnant, and hard-working people are still living in poverty. According to the Center on Budget and Policy Priorities, in the mid-1990s, there were 89,000 working poor families with children in Wisconsin. Seventy-four percent of those families had at least one working parent. And sixty-nine percent of these families had at least one working parent and still required some form of public assistance. In this time of a booming economy and low unemployment, these statistics are very troubling. Mr. President, the majority of the poor people of our country are working—the problem is that many of them are holding down low-paying jobs with stagnant wages that do not allow them to finally break free from poverty.

Despite successes in the welfare to work initiative, a 1998 U.S. Conference of Mayors study, entitled ''A Status Report on Hunger and Homelessness in American Cities,'' indicates that seventy-eight percent of the 30 major U.S. cities surveyed reported an increased demand for emergency food assistance. Thirty-seven percent of those people seeking food at soup kitchens and shelters in 1998 were employed. City officials surveyed listed low-paying jobs as the top cause of hunger in their cities. It is an undeniable disgrace that, in many cases, minimum wage workers cannot afford to feed themselves or their families.

Mr. President, no hard working American should have to worry about affording groceries, shoes for their kids, or medicines. The people this amendment will help are not people who spend their money frivolously. These are the families who scrimp and save to provide their children with the necessities of life: a decent place to live, enough to eat, clothes on their back, a decent education, and some hope for a better future.

The study, ''The State of Working Wisconsin—1998,'' by the Center on Wisconsin Strategy, contains some troubling news regarding wages. The Wisconsin median hourly wage is still eight-point-four percent below its 1979 level. Since 1979, Wisconsin's median wage has declined fifty percent faster than the five-point-three percent national decline over the same period. These numbers are, sadly, not unique to Wisconsin. This is the situation all over the country.

And this is the situation that the Kennedy amendment will help to address. According to the Economic Policy Institute, more than 205,000 workers in my home state of Wisconsin, or fifteen-point-one percent of Wisconsin's workforce, will benefit from the modest increase in this amendment. Those are real people, Mr. President. Real people who deserve this modest raise in pay for the work they do to support their families and to keep the American economy moving.

Opponents of this increase argue that it will hurt the economy. The Bureau of Labor Statistics reports that the 1996 and 1997 raises in the minimum wage had a positive impact on the economy. Unemployment has dropped to four-point-one percent, the lowest mark in three decades. Nine-point-one million new jobs have been created. And there is no reason to believe that this proposed increase will not have the same result. In fact, history shows that minimum wage increases have not had a negative impact on unemployment.

This modest increase of 50 cents per year is really not a hike at all after inflation—over the next two years it will simply restore the real value of the minimum wage to its 1982 level. So by the time the second installment of this proposed increase would go into effect, the buying power of workers scraping by on the minimum wage will be only what is was when Ronald Reagan was a new president. Meanwhile, wages at the high levels have been climbing steadily while the real value of the minimum wage has eroded.

I urge my colleagues to begin to restore some respect for the dignity of work to the federal minimum wage. The lowest paid workers in America's labor force deserve a chance to earn a decent living and we need to give them the tools. I urge every Senator to support the Kennedy amendment. It is a vote to reward work and to support every American worker.

Mr. ROTH. Mr. President, there are a few brief observations that would serve us well as we engage in this debate over minimum wage. Through the years, members on both sides of this issue have been able to come together successfully, to effect minimum wage increases.

I believe we will be able to come together again, to advance a proposal that is good for individuals, as well as for economic growth and job creation. And I believe that in this effort it would be good to have such a common sense proposal follow the model of our actions in 1996.

As my colleagues know, three years ago we successfully enacted the Small

Business Tax Act, which provided reasonable tax relief for businesses most affected by the costs incurred with the minimum wage increase. The current minimum wage of $5.15—which took effect on September 1, 1997—was established in that act. Minimum wage agreements prior to 1997 followed a similar pattern of consensus building.

This year, as we again consider raising the minimum wage, there are a number of tax issues involved. The minimum wage amendment proposed by Senator DOMENICI includes a package of tax measures that were previously approved by the Senate Finance Committee. The Finance Committee has jurisdiction over these matters, and as these proposal had been previously vetted within our committee, I agreed to allow them to come straight to the floor.

On the other hand, I am concerned with the revenue offsets included in the minimum wage amendment proposed by Senator KENNEDY. Many of these provisions are controversial proposals which have been rejected by this Congress. And we need to be very careful as we proceed considering them.

What is important is that we progress on this important issue—that if we are unable to agree on a compromise in this session as we are so close to adjournment, we will be able to successfully conclude this matter soon after our return next year.

The PRESIDING OFFICER. All time of the Senator from Massachusetts has expired.

The Senator from New Mexico has 1 minute 51 seconds.

Mr. DOMENICI. I thank Senator KENNEDY for a good debate. It was pretty exciting for so early in the morning. The Senator is pretty energetic even at 9 o'clock.

However, let me close by saying our amendment saves small business and gives them an opportunity to grow and prosper and energize this economy; at the same time, it gives every opportunity for the young people in our country to get into jobs wherein they break into the marketplace, that first-level job, and get those kinds of jobs in sufficient numbers to be helpful for whatever they are doing. There are even high school students doing this. They are 50 percent of the minimum-wage people in this country.

I have nothing against them. I have eight children; six of them worked in restaurants before they went to college and saved enough money because I didn't have enough money to put them through, having that many children. I understand that. They worked hard. They got promoted.

Nothing could be further from the truth that we are trying to hurt young people, whatever their status. We want them and their employers to continue to have a mutual opportunity—mutual for the small business to energize the economy and mutual for job opportunity at the first level of employment in the American system.

If Members are speaking of women heads of households, they are not talking about the minimum wage today; they are talking about the minimum wage 30 years ago. Eight percent of the minimum-wage earners in America today are women with full-time jobs—not 30, 40, or 50; 8 percent.

Clearly, we are trying to give everybody an opportunity to get better training and move ahead in job opportunities in the United States.

I move to table the Kennedy 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 amendment No. 2751. 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) is necessarily absent.

Mr. REID. I announce that the Senator from South Carolina (Mr. HOLLINGS) is absent because of a death in his family.

The result was announced—yeas 50, nays 48, as follows:

{Rollcall Vote No. 356 Leg.}

YEAS—50

Abraham	Fitzgerald	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bennett	Gramm	Roberts
Bond	Grams	Roth
Brownback	Grassley	Santorum
Bunning	Gregg	Sessions
Burns	Hagel	Shelby
Campbell	Hatch	Smith (NH)
Cochran	Helms	Smith (OR)
Collins	Hutchinson	Stevens
Coverdell	Hutchison	Thomas
Craig	Inhofe	Thompson
Crapo	Kyl	Thurmond
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Enzi	Mack	

NAYS—48

Akaka	Edwards	Lieberman
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Biden	Graham	Moynihan
Bingaman	Harkin	Murray
Boxer	Inouye	Reed
Breaux	Jeffords	Reid
Bryan	Johnson	Robb
Byrd	Kennedy	Rockefeller
Chafee, L.	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Conrad	Kohl	Snowe
Daschle	Landrieu	Specter
Dodd	Lautenberg	Torricelli
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden

NOT VOTING—2

Hollings	McCain

The motion was agreed to.

Mr. NICKLES. I move to reconsider the vote.

Mr. INHOFE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2547

Mr. DOMENICI. Parliamentary inquiry, Mr. President. What is the next order of business?

The PRESIDING OFFICER. There will now be 4 minutes of debate equally divided on the Domenici amendment.

Does the Senator from New Mexico wish to begin debate?

Mr. DOMENICI. I say to Senator KENNEDY, I am prepared to yield back my time. Are you?

Mr. KENNEDY. No. If we could have order, Mr. President.

The PRESIDING OFFICER. The Senate will be in order. Senators please take their conversations off the floor.

Mr. KENNEDY. The Senator from Maryland would like to address this issue, and I yield her the time on our side.

I would insist on order, if I could.

The PRESIDING OFFICER. Senators please take their conversations off the floor. The Senate will be in order.

The Senator from Maryland is recognized for 2 minutes.

Ms. MIKULSKI. Mr. President, I rise in opposition to the Republican amendment. I believe it is a watered-down, slowed-down, pennies-to-the-poor approach.

Why raise the minimum wage? We are in the greatest prosperity that the United States of America has ever seen. We have the opportunity to raise the standard of living for the poor. I believe what we need to do, now that we have moved hundreds of thousands of people from welfare, is to make work worth it.

Who are the people we are talking about? We are talking about the working poor who raise our children, who care for our elderly, many working two or three jobs to hold the family together.

I believe we need to make a commitment to the working poor, as we cross into the new century, that if you live in the United States of America and you work, you should not be poor.

The amendment the Senator from Massachusetts proposed was modest. It was spread over a 2-year period. It would take us into 2001. Why should a day-care worker make less than someone who works 40 hours a week at a bank job? We need to make sure that in this country, in order to sustain the efforts we have made in improving the standard of living for people, if you work, you will not be poor.

I yield such time as I might have.

Mr. ABRAHAM. Mr. President, I rise to express my strong support for this important amendment. Without touching Social Security, it would provide significant assistance to millions of Americans struggling economically even during this time of sustained growth.

I believe this amendment demonstrates my party's continuing commitment to fostering economic growth and helping those in need. And we should not forget that, despite recent economic good times, there are many Americans who remain in economic need.

African-American youths continue to suffer from an unemployment rate

three times that of white youths. Hispanic youths suffer from an unemployment rate ten points higher than that of whites. And 8 million American families continue to live in poverty.

We can do better. We can do better.

I believe this amendment constitutes an important step forward in our drive to unleash the entrepreneurial energies of the American people; energies that can lift individuals out of poverty as they push communities to higher levels of prosperity.

This amendment contains an important provision of the Renewal Alliance package I have been working toward since coming to the United States Senate. It also contains a number of other provisions that I believe represent the responsible way to raise the minimum wage: by ensuring that businesses do not find themselves saddled with costs that lead them to lay off minimum wage workers, exactly those proponents of a minimum wage hike are trying to assist.

This amendment addresses three major areas of concern to Americans striving to work their way into our vast middle class: work opportunity, investment, and health insurance.

First, as to work opportunity. In my view opportunity is the key to progress. I have sought to increase this opportunity through the Renewal Alliance, a bipartisan group of Senators seeking targeted tax benefits to spur economic growth in our nation's distressed urban and rural communities. This amendment contains key provisions of the Renewal Alliance program.

Most important is a provision to permanently extend the Work Opportunity Tax Credit. A credit of up to $2,400 for wages paid would provide businesses with extra funds for investment in growth and employee training. As a result, many Americans currently without bright futures will receive experience and training—the keys, in my view, to economic success.

Also critical to providing increased work opportunity are provisions in this amendment that encourage greater investment, and greater investment in small businesses in particular.

Mr. President, 99 percent of American employers are small businesses. Small businesses employ more than half our private work force, and they have consistently been the engine of our economic growth, whether in traditional industries or on the cutting edge of high technology.

Further, Mr. President, it is often small business owners who are willing to take a chance on someone in need—someone without experience, someone who has fallen on hard times.

If they are to employ more Americans who are in need, Mr. President, our small businesses must have access to more investment capital. This amendment would addresses our continuing shortage of investment, thereby spurring small business growth and hiring.

First, it would increase the maximum dollar amount small businesses can deduct for investment in business property. By increasing this amount to $30,000, beginning in 2001, the amendment would provide an additional $3,850 in annual tax savings for small businesses investing in new equipment.

Second, the amendment would provide more than 50 provisions encouraging investment in pensions. They would expand coverage, enhance fairness for women, increase portability, strengthen security and reduce regulatory burdens.

Finally, this amendment would addresses inequities in our tax structure that keep an estimated 44 million Americans from affording health insurance. 44 million is a distressing number. Equally distressing is the fact that fully 81 percent of uninsured Americans have jobs.

Too many Americans, including the self-employed, the unemployed, and employees of small companies that do not provide health insurance, can't afford coverage. Why not? Because, under our tax code, they must pay taxes first, and buy insurance with whatever they have left over—if anything.

Paying with after-tax dollars can make health insurance twice as expensive—too expensive for millions of working Americans.

We must address this inequity in our tax code. This amendment would do just that.

First, it would enable self-employed Americans to deduct the full cost of health insurance. Finally, entrepreneurs would get the same tax benefits as larger companies.

Second, this amendment would provide an above-the-line deduction for individuals whose employers do not subsidize more than 50% of the cost of health coverage. Thus all workers, not just those who itemize, would be better able to afford health care costs.

Taken together, these provisions would provide significantly greater economic opportunity for all Americans. They would safeguard our economic growth and spur further investment in American workers.

I urge my colleagues to give this important amendment their full support.

Mr. MOYNIHAN. Mr. President, I wish to point out a concern I have with a seemingly innocuous, seemingly beneficial, provision contained in the Domenici amendment to S. 625, the ''Bankruptcy Reform Act of 1999''—Section 68. Modification of Exclusion for Employer Provided Transit Passes. The goal of the provision—to expand the use of the Federal transit benefit, a ''qualified transportation fringe'' in the vernacular—is admirable, but I fear that the way in which the provision pursues that goal may, in fact, unintentionally undermine the transit benefit.

The employer-provided Federal transit benefit has evolved since its creation within the Deficit Reduction Act of 1984 as a $15 per month ''de minimis'' benefit. After fourteen years of gradual change, last year's Transportation Equity Act for the 21st Century (TEA–21) codified the benefit as a ''pre-tax'' benefit of up to $65 per month. The cap will increase to $100 in 2002. The ''pre-tax'' aspect was a major reform because it provided an economic incentive—payroll tax savings—for employers to offer the program. Companies would save money by offering a benefit of great utility to their workers while simultaneously removing automobiles from our choked and congested urban streets and highways. It is effective public policy. (As an aside, I should note that a similar pre-tax benefit of $175 per month exists for parking, and so despite all we know about air pollution and the intractable problems of automobile congestion, Congress continues to encourage people to drive. Discouraging perhaps, but we're closing the gap. If one doesn't have thirty years to devote to social policy, one should not get involved!)

Quite consciously, and conscientiously, Congress established a bias in the statute toward the use of vouchers—which employers can distribute to employees—over bona fide cash reimbursement arrangements. We permitted employers to use cash reimbursement arrangements only when a voucher program was not readily available. We reasoned that because the vouchers could only be used for transit, we would eliminate the need for employees to prove that they were using the tax benefit for the intended purpose. Furthermore, by stipulating that voucher programs are the clear preference of Congress, we are compelling transit authorities to offer better services—monthly farecards, unlimited ride passes, smartcards, et al.—to the multitudes of working Americans who must presently endure all manner of frustrations and indignities during their daily work commute.

While the new law has only been in effect for little more than a year, the program is catching on in our large metropolitan areas and should continue to expand. We have been alerted, however, to a legitimate concern of large multistate employers. Several of these companies have noted that establishing voucher programs can be arduous and unwieldy when the companies must craft separate programs in various jurisdictions with different transportation authorities. These difficulties, coupled with an expertise in administering cash reimbursement programs, have convinced the companies that bona fide cash reimbursement programs are more practical. Fair enough.

We should, therefore, make it easier for such companies to offer the benefit through cash reimbursement arrangements. While I am committed to that end, I have serious reservations about the repeal of the voucher preference contained in the Domenici amendment.

My main objection is that the U.S. Treasury is currently developing substantiation regulations for the administration of this benefit through cash reimbursement arrangements. These

regulations will provide companies with a clear understanding of their obligations in the verification of their employees' transit usage, an understanding which does not exist today. Until these regulations are promulgated, voucher programs offer the only true mechanism of verification, as vouchers, unlike cash, are useless unless enjoyed for their intended purpose. The Congress should not take an action that might rapidly increase the use of a tax benefit without the existence of accompanying safeguards to ensue the program's integrity.

I will work with my colleagues on the Finance Committee, with my revered Chairman, and any Senator interested in this issue, to improve the ease with which companies can offer this important benefit to their employees. It is, after all, in our national interest. But I must strongly oppose efforts to repeal the voucher preference until the Treasury establishes a regulatory framework for cash reimbursement. We have been told to expect the regulations by mid-January. We anxiously await their arrival.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. DOMENICI. Mr. President, the Republican bill does the following: It raises the minimum wage $1 in three installments instead of two. It gives great opportunity to small businesspeople and others who have been denied relief under the Tax Code of this country.

Let me explain so everybody will understand the basic ones we try to help in this bill. One, we help workers pay for health care. For the first time in history, workers in the United States, many who work for small businesses, can buy their own health insurance and deduct every penny of it. Heretofore, they could not do that. We have a 100 percent self-employed health insurance deduction. That should have been the case 10 years ago. We finally have it in this bill.

We made permanent the work opportunity tax credit, which is to help employers, mostly small businesses, hire those who cannot get jobs, and they get a credit for it. We made that permanent. That is good for America since we have reduced the number of welfare recipients in America by 48 percent; and we need to make permanent the incentive to hire them.

We have reduced the Federal unemployment surtax. As I said, we have made permanent that work opportunity tax credit I just told you about.

In addition, there is no question that the Democrats decided to raise taxes to pay for their wage increases. So they raise taxes almost $13 billion in the first 5 years, which is not necessary with the kind of surpluses that we have. We have used merely 12.5 percent of the tax cuts we had proposed 5 months ago. So 12.5 percent of them are in this bill.

This is the right thing to do.

Let me close by telling you, 55 percent of the minimum wage earners in America are young people; two-thirds are part-time workers; and 8 percent are women who are heads of households working full time.

I yield the floor.

Mr. KENNEDY. I yield myself the remaining 30 seconds.

Mr. President, first, this is a watered-down increase in the minimum wage that does not deserve to pass. It is a sham.

Second, this legislation assaults the whole formula on overtime. It threatens overtime for 73 million Americans.

And third, it provides $75 billion in tax breaks for wealthy individuals that is not paid for.

It does not deserve the support of the Senate. I hope it will be defeated.

The PRESIDING OFFICER. All time has expired. The question is on the amendment.

Mr. DOMENICI. 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 amendment No. 2547. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Arizona (Mr. MCCAIN) is necessarily absent.

Mr. REID. I announce that the Senator from South Carolina (Mr. HOLLINGS) is absent because of a death in the family.

The result was announced—yeas 54, nays 44, as follows:

[Rollcall Vote No. 357 Leg.]

YEAS—54

Abraham	Enzi	Mack
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Murkowski
Bennett	Gorton	Nickles
Bond	Gramm	Roberts
Brownback	Grams	Roth
Bunning	Grassley	Santorum
Burns	Gregg	Sessions
Campbell	Hagel	Shelby
Chafee, L.	Hatch	Smith (NH)
Cleland	Helms	Smith (OR)
Cochran	Hutchinson	Snowe
Collins	Hutchison	Specter
Coverdell	Inhofe	Stevens
Craig	Jeffords	Thomas
Crapo	Kyl	Thompson
DeWine	Lott	Thurmond
Domenici	Lugar	Warner

NAYS—44

Akaka	Feingold	Lincoln
Baucus	Feinstein	Mikulski
Bayh	Graham	Moynihan
Biden	Harkin	Murray
Bingaman	Inouye	Reed
Boxer	Johnson	Reid
Breaux	Kennedy	Robb
Bryan	Kerrey	Rockefeller
Byrd	Kerry	Sarbanes
Conrad	Kohl	Schumer
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Voinovich
Dorgan	Leahy	Wellstone
Durbin	Levin	Wyden
Edwards	Lieberman	

NOT VOTING—2

Hollings McCain

The amendment (No. 2547) was agreed to.

Mr. NICKLES. I move to reconsider the vote.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Mr. ENZI assumed the Chair.)

Mr. LEAHY. Mr. President, to bring Senators up to date on where we are, the distinguished Senator from New Jersey, Mr. TORRICELLI, and I have been working with the distinguished Senators from Iowa and Utah, Messrs. GRASSLEY and HATCH, to clear as many amendments as we can agree to. Senators GRASSLEY, HATCH, TORRICELLI, and I have been able to get a number of these agreed to. We have more than 10 amendments we are ready to accept to show we are making progress on this bill.

For the benefit of Senators, I will briefly describe these amendments we are prepared to accept. We are prepared to accept the Feingold amendment No. 2745, an amendment to improve the bill by prohibiting retroactive assessments of disposable income. It ensures that farmers forced into bankruptcy can continue to carry on their farming operations without retroactive assessments against their disposable income.

We are prepared to accept Robb amendment No. 1723 which improves the bill by clarifying the trustees shall return any payments not previously paid and not yet due and owing to lessors and purchase money secured creditors if a plan is not confirmed.

We are prepared to accept Grassley amendment No. 1731, a bipartisan amendment improving the bill by giving bankruptcy judges the discretion to waive the $175 filing fee for chapter 7 cases for debtors whose annual income is less than 125 percent of the poverty level. Bankruptcy is the only civil proceeding where in forma pauperis filing status is not permitted. This amendment corrects that anomaly. The Grassley amendment is cosponsored by Senators TORRICELLI, SPECTER, FEINGOLD, and BIDEN.

Feingold amendment No. 2743 improves the bill by striking the requirement that debtor's attorneys must pay a trustee's attorney fees if the debtor is not substantially justified in filing for chapter 7. The current requirement that debtor's attorney must pay a trustee attorney's fee often causes a chilling effect of discouraging eligible debtors from filing chapter 7 for fear of paying future fees. Senator SPECTER is a sponsor of this amendment.

We have Hatch amendment No. 1714 improving the bill by adding procedures for the prosecution of materially fraudulent claims in bankruptcy schedules.

Hatch amendment No. 1715 improves the bill by dismissing bankruptcy cases if the debtor commits a crime of violence or a drug trafficking crime.

The Kerry amendment No. 1725 modifies the deadlines for small business bankruptcy filings. Small businesses need the reasonable time limits of this amendment to reorganize their business.

We have the Collins amendment No. 1726, a bipartisan amendment improving the bill by providing bankruptcy rules for family fishermen. The amendment is cosponsored by Senators KERRY of Massachusetts, MURRAY, STEVENS, and KENNEDY.

Johnson amendment No. 2654 improves the bill by paying chapter 7 trustees if a case is dismissed or diverted under the bill's means test.

The DeWine amendment No. 1727 improves the bill by clarifying that a debt from a qualified education loan under the Internal Revenue Service Code is nondischargable.

Grassley amendment No. 2514 improves the bill by clarifying a special tax assessment on real property secured debts under bankruptcy laws. Many municipal governments, particularly in California, depend on these real estate taxes or assessments for revenues. The distinguished Senator from California, Mrs. FEINSTEIN, is a cosponsor of this amendment.

Senators had been coming to the floor Friday and Monday to offer amendments. Even though we had only half a day of debate yesterday, Senators from both sides of the aisle offered amendments to improve the bill.

So I urge Senators to continue to do that. We could accept a vote or otherwise dispose of the Democratic and Republican amendments. I have discussed this with the distinguished Senator from Iowa. Both of us would like, if at all possible, to whittle down the number and be able to tell our colleagues at what point we are apt to finish the bill. We have been working. I don't think we have even had quorum calls.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. GRASSLEY. Mr. President, first of all, I thank the Senator from Vermont for his encouragement of all Members that although we have had so many amendments filed, it would be determined that every amendment either be offered or else dropped from the list. I hope later on this afternoon we can finish that process.

Mr. LEAHY. I thank my colleague.

AMENDMENTS NOS. 2745, 1723, 1731, 2743, 1714, 1715, 1725, 1726, 2654, 1727, 2514 EN BLOC

Mr. GRASSLEY. With respect to the individual amendments that the Senator from Vermont just gave details of, I ask unanimous consent the amendments listed be considered en bloc, agreed to en bloc, and the motion to reconsider be laid on the table.

They are amendments Nos. 2745, 1723, 1731, 2743, 1714, 1715, 1725, 1726, 2654, 1727, 2514.

Mr. LEAHY. We have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments (Nos. 2745, 1723, 1731, 2743, 1714, 1715, 1725, 1726, 2654, 1727, 2514) were considered and agreed to en bloc, as follows:

AMENDMENT NO. 2745

(Purpose: To prohibit the retroactive assessment of disposal income)

At the end of title X, insert the following:

SEC. ___. PROHIBITION OF RETROACTIVE ASSESSMENT OF DISPOSABLE INCOME.

(a) IN GENERAL.—Section 1225(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) If the plan provides for specific amounts of property to be distributed on account of allowed unsecured claims as required by paragraph (1)(B), those amounts equal or exceed the debtor's projected disposable income for that period, and the plan meets the requirements for confirmation other than those of this subsection, the plan shall be confirmed.''.

(b) MODIFICATION.—Section 1229 of title 11, United States Code, is amended by adding at the end the following:

''(d)(1) A modification of the plan under this section may not increase the amount of payments that were due prior to the date of the order modifying the plan.

''(2) A modification of the plan under this section to increase payments based on an increase in the debtor's disposable income may not require payments to unsecured creditors in any particular month greater than the debtor's disposable income for that month unless the debtor proposes such a modification.

''(3) A modification of the plan in the last year of the plan shall not require payments that would leave the debtor with insufficient funds to carry on the farming operation after the plan is completed unless the debtor proposes such a modification.''.

AMENDMENT NO. 1723

(Purpose: To clarify the amount of payments to be returned to a debtor if a plan is not confirmed, and for other purposes)

On page 106, line 16, insert ''and not yet due and owing'' after ''previously paid''.

AMENDMENT NO. 1731

(Purpose: To provide for a waiver of filing fees in certain bankruptcy cases, and for other purposes)

On page 145, between lines 15 and 16, insert the following:

SEC. 420. BANKRUPTCY FEES.

Section 1930 of title 28, United States Code, is amended—

(1) in subsection (a), by striking ''Notwithstanding section 1915 of this title, the parties'' and inserting ''Subject to subsection (f), the parties''; and

(2) by adding at the end the following:

''(f)(1) The Judicial Conference of the United States shall prescribe procedures for waiving fees under this subsection.

''(2) Under the procedures described in paragraph (1), the district court or the bankruptcy court may waive a filing fee described in paragraph (3) for a case commenced under chapter 7 of title 11 if the court determines that an individual debtor whose income is less than 125 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved is unable to pay that fee in installments.

''(3) A filing fee referred to in paragraph (2) is—

''(A) a filing fee under subsection (a)(1); or

''(B) any other fee prescribed by the Judicial Conference of the United States under subsection (b) that is payable to the clerk of the district court or the clerk of the bankruptcy court upon the commencement of a case under chapter 7 of title 11.

''(4) In addition to waiving a fee under paragraph (2), the district court or the bankruptcy court may waive any other fee prescribed under subsection (b) or (c) if the court determines that the individual with an income at a level described in paragraph (2) is unable to pay that fee in installments.''.

AMENDMENT NO. 2743

(Purpose: To modify the standard for the award of attorneys' fees)

On page 12, strike line 22 and insert ''frivolous.''.

AMENDMENT NO. 1714

(Purpose: To provide for improved enforcement of criminal bankruptcy filing provisions, and for other purposes)

On page 28, line 7, after ''**debt**'', insert ''**and materially fraudulent statements in bankruptcy schedules**''.

On page 28, line 12, after the period, insert ''In addition to addressing the violations referred to in the preceding sentence, the individuals described under subsection (b) shall address violations of section 152 or 157 relating to materially fraudulent statements in bankruptcy schedules that are intentionally false or intentionally misleading.''.

On page 28, line 25, strike the quotation marks and the second period.

On page 28, after line 25, insert the following:

''(d) BANKRUPTCY PROCEDURES.—The bankruptcy courts shall establish procedures for referring any case which may contain a materially fraudulent statement in a bankruptcy schedule to the individuals designated under this section.''.

On page 29, strike the item between lines 3 and 4 and insert the following:

''158. Designation of United States attorneys and agents of the Federal Bureau of Investigation to address abusive reaffirmations of debt and materially fraudulent statements in bankruptcy schedules.''.

AMENDMENT NO. 1715

(Purpose: To amend section 707, of title 11, United States Code, to provide for the dismissal of certain cases filed under chapter 7 of that title by a debtor who has been convicted of a crime of violence or a drug trafficking crime)

On page 14, between lines 14 and 15, insert the following:

(c) DISMISSAL FOR CERTAIN CRIMES.—Section 707 of title 11, United States Code, as amended by subsection (a) of this section, is amended by adding at the end the following:

''(c)(1) In this subsection—

''(A) the term 'crime of violence' has the meaning given that term in section 16 of title 18; and

''(B) the term 'drug trafficking crime' has the meaning given that term in section 924(c)(2) of title 18.

''(2) Except as provided in paragraph (3), after notice and a hearing, the court, on a motion by the victim of a crime of violence or a drug trafficking crime, or at the request of a party in interest, shall dismiss a voluntary case filed by an individual debtor under this chapter if that individual was convicted of that crime.

''(3) The court may not dismiss a case under paragraph (2) if the debtor establishes by a preponderance of the evidence that the filing of a case under this chapter is necessary to satisfy a claim for a domestic support obligation.''.

On page 14, line 15, strike ''(c)'' and insert ''(d)''.

AMENDMENT NO. 1725

(Purpose: To amend plan filing and confirmation deadlines)

On page 155, line 16, strike ''90'' and insert ''180''.

On page 155, strike through lines 18 and 19.

On page 155, line 20, strike ''(B)'' and insert ''(A)''.

On page 155, line 22, strike ''(C)'' and insert ''(B)''.

On page 155, line 24, strike ''90'' and insert ''300''.

Beginning on page 156, line 22, strike through page 157, line 8.

Redesignate sections 430 through 435 as sections 429 through 434, respectively.

On page 159, lines 13 and 14, strike '', as amended by section 429 of this Act,''.

On page 250, line 17, strike ''432(2)'' and insert ''431(2)''.

AMENDMENT NO. 1726

(Purpose: To provide for family fishermen)

At the appropriate place insert the following:

SEC. ___. FAMILY FISHERMEN.

(a) DEFINITIONS.—Section 101 of title 11, United States Code, is amended—

(1) by inserting after paragraph (7) the following:

''(7A) 'commercial fishing operation' includes—

''(A) the catching or harvesting of fish, shrimp, lobsters, urchins, seaweed, shellfish, or other aquatic species or products;

''(B) for purposes of section 109 and chapter 12, aquaculture activities consisting of raising for market any species or product described in subparagraph (A); and

''(C) the transporting by vessel of a passenger for hire (as defined in section 2101 of title 46) who is engaged in recreational fishing;

''(7B) 'commercial fishing vessel' means a vessel used by a fisherman to carry out a commercial fishing operation;'';

(2) by inserting after paragraph (19) the following:

''(19A) 'family fisherman' means—

''(A) an individual or individual and spouse engaged in a commercial fishing operation (including aquaculture for purposes of chapter 12)—

''(i) whose aggregate debts do not exceed $1,500,000 and not less than 80 percent of whose aggregate noncontingent, liquidated debts (excluding a debt for the principal residence of such individual or such individual and spouse, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such individual or such individual and spouse; and

''(ii) who receive from such commercial fishing operation more than 50 percent of such individual's or such individual's and spouse's gross income for the taxable year preceding the taxable year in which the case concerning such individual or such individual and spouse was filed; or

''(B) a corporation or partnership—

''(i) in which more than 50 percent of the outstanding stock or equity is held by—

''(I) 1 family that conducts the commercial fishing operation; or

''(II) 1 family and the relatives of the members of such family, and such family or such relatives conduct the commercial fishing operation; and

''(ii)(I) more than 80 percent of the value of its assets consists of assets related to the commercial fishing operation;

''(II) its aggregate debts do not exceed $1,500,000 and not less than 80 percent of its aggregate noncontingent, liquidated debts (excluding a debt for 1 dwelling which is owned by such corporation or partnership and which a shareholder or partner maintains as a principal residence, unless such debt arises out of a commercial fishing operation), on the date the case is filed, arise out of a commercial fishing operation owned or operated by such corporation or such partnership; and

''(III) if such corporation issues stock, such stock is not publicly traded;''; and

(3) by inserting after paragraph (19A) the following:

''(19B) 'family fisherman with regular annual income' means a family fisherman whose annual income is sufficiently stable and regular to enable such family fisherman to make payments under a plan under chapter 12 of this title;''.

(b) WHO MAY BE A DEBTOR.—Section 109(f) of title 11, United States Code, is amended by inserting ''or family fisherman'' after ''family farmer''.

(c) CHAPTER 12.—Chapter 12 of title 11, United States Code, is amended—

(1) in the chapter heading, by inserting ''**OR FISHERMAN**'' after ''**FAMILY FARMER**'';

(2) in section 1201, by adding at the end the following:

''(e)(1) Notwithstanding any other provision of law, for purposes of this subsection, a guarantor of a claim of a creditor under this section shall be treated in the same manner as a creditor with respect to the operation of a stay under this section.

''(2) For purposes of a claim that arises from the ownership or operation of a commercial fishing operation, a co-maker of a loan made by a creditor under this section shall be treated in the same manner as a creditor with respect to the operation of a stay under this section.'';

(3) in section 1203, by inserting ''or commercial fishing operation'' after ''farm'';

(4) in section 1206, by striking ''if the property is farmland or farm equipment'' and inserting ''if the property is farmland, farm equipment, or property of a commercial fishing operation (including a commercial fishing vessel)''; and

(5) by adding at the end the following:

''§ 1232. Additional provisions relating to family fishermen

''(a)(1) Notwithstanding any other provision of law, except as provided in subsection (c), with respect to any commercial fishing vessel of a family fisherman, the debts of that family fisherman shall be treated in the manner prescribed in paragraph (2).

''(2)(A) For purposes of this chapter, a claim for a lien described in subsection (b) for a commercial fishing vessel of a family fisherman that could, but for this subsection, be subject to a lien under otherwise applicable maritime law, shall be treated as an unsecured claim.

''(B) Subparagraph (A) applies to a claim for a lien resulting from a debt of a family fisherman incurred on or after the date of enactment of this chapter.

''(b) A lien described in this subsection is—

''(1) a maritime lien under subchapter III of chapter 313 of title 46 without regard to whether that lien is recorded under section 31343 of title 46; or

''(2) a lien under applicable State law (or the law of a political subdivision thereof).

''(c) Subsection (a) shall not apply to—

''(1) a claim made by a member of a crew or a seaman including a claim made for—

''(A) wages, maintenance, or cure; or

''(B) personal injury; or

''(2) a preferred ship mortgage that has been perfected under subchapter II of chapter 313 of title 46.

''(d) For purposes of this chapter, a mortgage described in subsection (c)(2) shall be treated as a secured claim.''.

(d) CLERICAL AMENDMENTS.—

(1) TABLE OF CHAPTERS.—In the table of chapters for title 11, United States Code, the item relating to chapter 12, is amended to read as follows:

''12. Adjustments of Debts of a Family Farmer or Family Fisherman with Regular Annual Income ..... 1201''.

(2) TABLE OF SECTIONS.—The table of sections for chapter 12 of title 11, United States Code, is amended by adding at the end the following new item:

''1232. Additional provisions relating to family fishermen.''.

(e) Nothing in this title is intended to change, affect, or amend the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801, et seq.).

AMENDMENT NO. 2654

(Purpose: To provide chapter 7 trustees with reasonable compensation for their work in managing the ability to pay test)

At the appropriate place, insert the following:

SEC. ___. COMPENSATING TRUSTEES.

Title 11, United States Code, is amended—

(1) in section 104(b)(1) in the matter preceding subparagraph (A) by—

(A) striking ''and 523(a)(2)(C)''; and

(B) inserting ''523(a)(2)(C), and 1326(b)(3)'' before ''immediately'';

(2) in section 326, by inserting at the end the following:

''(e) Notwithstanding any other provision of this section, if a trustee in a chapter 7 case commences a motion to dismiss or convert under section 707(b) and such motion is granted, the court shall allow reasonable compensation under section 330(a) of this title for the services and expenses of the trustee and the trustee's counsel in preparing and presenting such motion and any related appeals.''; and

(3) in section 1326(b)—

(A) in paragraph (1), by striking ''and'';

(B) in paragraph (2), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(3) if a chapter 7 trustee has been allowed compensation under section 326(e) in a case converted to this chapter or in a case dismissed under section 707(b) in which the debtor in this case was a debtor—

''(A) the amount of such unpaid compensation which shall be paid monthly by prorating such amount over the remaining duration of the plan, but a monthly payment shall not exceed the greater of—

''(i) $25; or

''(ii) the amount payable to unsecured nonpriority creditors as provided by the plan multiplied by 5 percent, and the result divided by the number of months in the plan; and

''(B) notwithstanding any other provision of this title—

''(i) such compensation is payable and may be collected by the trustee under this paragraph even if such amount has been discharged in a prior proceeding under this title; and

''(ii) such compensation is payable in a case under this chapter only to the extent permitted by this paragraph.''.

AMENDMENT NO. 1727

(Purpose: To provide for the nondischargeability of certain educational benefits and loans)

On page 53, insert between lines 18 and 19 the following:

SEC. 220. NONDISCHARGEABILITY OF CERTAIN EDUCATIONAL BENEFITS AND LOANS.

Section 523(a) of title 11, United States Code, is amended by striking paragraph (8) and inserting the following:

''(8) unless excepting such debt from discharge under this paragraph would impose an undue hardship on the debtor and the debtor's dependents, for—

''(A)(i) an educational benefit overpayment or loan made, insured, or guaranteed by a governmental unit, or made under any program funded in whole or in part by a governmental unit or nonprofit institution; or

''(ii) an obligation to repay funds received as an educational benefit, scholarship, or stipend; or

''(B) any other educational loan that is a qualified education loan, as that term is defined in section 221(e)(1) of the Internal Revenue Code of 1986, incurred by an individual debtor;''.

AMENDMENT NO. 2514

(Purpose: To amend Title 11 of the United States Code)

Insert at the appropriate place:

Section 362(b)(18) of title 11, United States Code, is amended to read as follows:

(18) under subsection (a) of the creation or perfection of a statutory lien for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the filing of the petition.

Mr. FEINGOLD. Mr. President, I thank the managers for offering and accepting the bipartisan amendment that would allow courts to waive the filing fee for chapter 7 filers who cannot afford to pay. This is similar to an amendment that Senator SPECTER and I successfully offered on the floor in the last Congress. I am certain we could have repeated that success on this bill, but I did not think it was necessary this year to have a rollcall vote since the House-passed bankruptcy bill includes a similar provision.

It is unbelievable to me that bankruptcy is the only Federal civil proceeding in which a poor person cannot file in forma pauperis. That means that in any other federal civil proceeding you can file a case without paying the filing fee if the court determines that you are unable to afford the fee, but in bankruptcy you either pay the filing fee or you are denied access to the system.

That doesn't make any sense. The bankruptcy system, is by definition designed to assist those who have fallen on hard times, but because there is no allowance for in forma pauperis filing, the system is unavailable to the poorest of the poor. This prohibition against debtors filing in forma pauperis is a clear obstacle to the poor gaining access to justice.

Currently the filing fee for consumer bankruptcy is $175, and it may well be increased in this bill. That's roughly the weekly take home pay of an employee working a 40-hour week at the minimum wage. It is unreasonable and unrealistic to expect the indigent—people who barely get by from week to week, the very people who truly need the protection afforded by the bankruptcy system the most—to save money to raise such a fee simply to enter the system.

Congress has already acknowledged that the bankruptcy system may need an in forma pauperis proceeding by enacting a three year pilot program in six judical districts across the country. The Federal Judicial Center recently submitted a comprehensive report to Congress analyzing this pilot program in which it found that:

A fee waiver application was filed in only 3.4 percent of all chapter 7 cases, and the large majority of these waivers were granted. Indeed, the U.S. Trustees Office filed objections to less than 1 percent of the applications. In other words, only those very few individuals who really needed the fee-waiver applied for it.

The fee-waiver program enhanced access to the bankruptcy system for indigent single women above and beyond any other group. We cannot strike another blow against single mothers and their children by denying them access to the bankruptcy system because they cannot even afford the filing fee.

The nature of the debt for those who filed for the fee-waiver differed from that of other debtors in that their debts related more to basic subsistence—education, health, utility services, and housing. Moreover, 63 percent of the housing-related debts of those who filed for the fee-waiver owed their debts to public housing authorities. Therefore, these indigent debtors were not filing bankruptcy to escape paying for their boats, or their fancy entertainment systems. They were filing bankruptcy merely to subsist.

Often times the bankruptcy system was the only thing that stood between these unfortunate people and homelessness.

There was only a minimal increase in the number of filings and there was no indication that debtors filed for chapter 7 rather than chapter 13 just to obtain the benefit of the fee-waiver program. Simply stated, the debtors did not abuse the system.

In sum, this amendment would build upon the strong foundation established in the pilot program and direct the Judicial Center to create a nation-wide in forma pauperis program for the bankruptcy system, thus, establishing some fairness in the bankruptcy filing process for the most financially strapped debtors.

We have made one modification in the amendment to make sure that in forma pauperis filing status is only available to truly indigent people, namely those with an annual income of below 125% of the poverty level. That is the same income qualification required for people to receive free legal assistance from the Legal Service Corporation. Obviously, we don't intend for the bankruptcy filing fee to be waived for people who aren't really poor. So I was happy to agree to this modification.

The expenditure of funds required by this amendment is clearly justified. We made the decision long ago in this country that our judicial system would be open to everyone—those who can pay, and those who cannot—and we decided that as a nation, we would absorb the cost of allowing those who could not pay to receive the same access as those who could. If you are poor, and you cannot afford the fee to file for divorce, we absorb the cost. If someone does you wrong and you cannot afford the filing fee to sue, we absorb the cost. Likewise, if you are in such financial difficulty that you must file for bankruptcy, and you cannot afford the filing fee, now, because of this amendment, we must also absorb the cost.

In this bill, where we are giving such advantages to the well-heeled landlords and credit companies, I am pleased that we will take this small step to ensure that the poorest of the poor are not shut out of this very important part of our system of justice. Again, I thank the managers for agreeing to this amendment.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut.

Mr. DODD. Mr. President, if I can get the attention of the floor manager of this bill, I think what I am about to do is all right. I will call up three amendments and immediately ask for them to be laid aside, and then I will call up an amendment which I want to debate.

AMENDMENTS NOS. 2531, 2532, AND 2753

Mr. DODD. Mr. President, I call up amendments Nos. 2531, 2532, and 2753.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD] proposes amendments numbered 2531, 2532, and 2753.

The amendments are as follows:

AMENDMENT NO. 2531

(Purpose: To protect certain education savings)

On page 83, between lines 4 and 5, insert the following:

SEC. 2 . PROTECTION OF EDUCATION SAVINGS.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, as amended by section 903, is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking ''or'' at the end;

(B) by redesignating paragraph (6) as paragraph (8); and

(C) by inserting after paragraph (5) the following:

''(6) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of filing of the petition, but—

''(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were placed in such account;

''(B) only to the extent that such funds—

''(i) are not pledged or promised to any entity in connection with any extension of credit; and

''(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

''(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later

than 365 days before such date, only so much of such funds as does not exceed $5,000;

''(7) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of filing of the petition, but—

''(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a son, daughter, stepson, step-daughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were paid or contributed;

''(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

''(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000; or''; and

(2) by adding at the end the following:

''(f) In determining whether any of the relationships specified in paragraph (6)(A) or (7)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 105(d), 304(c)(1), 305(2), 315(b), and 316 of this Act, is amended by adding at the end the following:

''(k) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).''.

On page 7, line 15, strike ''(ii)'' and insert ''(ii)(I)''.

On page 7, between lines 21 and 22, insert the following:

''(II) The expenses referred to in subclause (I) shall include—

''(aa) taxes and mandatory withholdings from wages;

''(bb) health care;

''(cc) alimony, child, and spousal support payments;

''(dd) legal fees necessary for the debtor's case;

''(ee) child care and the care of elderly or disabled family members;

''(ff) reasonable insurance expenses and pension payments;

''(gg) religious and charitable contributions;

''(hh) educational expenses not to exceed $10,000 per household;

''(ii) union dues;

''(jj) other expenses necessary for the operation of a business of the debtor or for the debtor's employment;

''(kk) utility expenses and home maintenance expenses for a debtor that owns a home;

''(*ll*) ownership costs for a motor vehicle, determined in accordance with Internal Revenue Service transportation standards, reduced by any payments on debts secured by the motor vehicle or vehicle lease payments made by the debtor;

''(mm) expenses for children's toys and recreation for children of the debtor;

''(nn) tax credits for earned income determined under section 32 of the Internal Revenue Code of 1986; and

''(oo) miscellaneous and emergency expenses.

On page 83, between lines 4 and 5, insert the following:

SEC. 225. TREATMENT OF TAX REFUNDS AND DOMESTIC SUPPORT OBLIGATIONS.

(a) PROPERTY OF THE ESTATE.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (a)(5)(B) by inserting ''except as provided under subsection (b)(7),'' before ''as a result''; and

(2) in subsection (b)—

(A) in paragraph (4), by striking ''or'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by inserting after paragraph (5) the following:

''(6) any—

''(A) refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed under section 32 of such Code for such year; and

''(B) advance payment of an earned income tax credit under section 3507 of the Internal Revenue Code of 1986; or

''(7) the right of the debtor to receive alimony, support, or separate maintenance for the debtor or dependent of the debtor.''.

(b) PROTECTION OF EARNED INCOME TAX CREDIT AND SUPPORT PAYMENTS UNDER BANKRUPTCY REPAYMENT PLANS IN CHAPTER 12.—Section 1225(b)(2) of title 11, United States Code, as amended by section 218 of this Act, is amended—

(1) by inserting ''(A)'' before ''For purposes'';

(2) by striking ''(A) for the maintenance'' and inserting ''(i) for the maintenance'';

(3) by striking ''(B) if the debtor'' and inserting ''(ii) if the debtor''; and

(4) by adding at the end the following:

''(B) In determining disposable income the court shall not consider amounts the debtor receives or is entitled to receive from—

''(i) any refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed by section 32 of the Internal Revenue Code of 1986 for such year;

''(ii) any advance payment for an earned income tax credit described in clause (i); or

''(iii) child support, foster care, or disability payment for the care of a dependent child in accordance with applicable nonbankruptcy law.''.

(c) PROTECTION OF EARNED INCOME TAX CREDIT AND SUPPORT PAYMENTS UNDER BANKRUPTCY REPAYMENT PLANS IN CHAPTER 13.—Section 1325(b)(2) of title 11, United States Code, as amended by section 218 of this Act, is amended—

(1) by inserting ''(A)'' before ''For purposes'';

(2) by striking ''(A) for the maintenance'' and inserting ''(i) for the maintenance'';

(3) by striking ''(B) if the debtor'' and inserting ''(ii) if the debtor''; and

(4) by adding at the end the following:

''(B) In determining disposable income the court shall not consider amounts the debtor receives or is entitled to receive from—

''(i) any refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed by section 32 of the Internal Revenue Code of 1986 for such year;

''(ii) any advance payment for an earned income tax credit described in clause (i); or

''(iii) child support, foster care, or disability payment for the care of a dependent child in accordance with applicable nonbankruptcy law.''.

(d) EXEMPTIONS.—Section 522(d) of title 11, United States Code, as amended by section 224 of this Act, is amended in paragraph (10)—

(1) in subparagraph (C), by adding ''or'' after the semicolon;

(2) by striking subparagraph (D); and

(3) by striking ''(E)'' and inserting ''(D)''.

On page 92, line 5, strike ''personal property'' and insert ''an item of personal property purchased for more than $3,000''.

On page 93, line 19, strike ''property'' and insert ''an item of personal property purchased for more than $3,000''.

On page 97, line 10, strike ''if'' and insert ''to the extent that''.

On page 97, line 10, after ''incurred'' insert ''to purchase that thing of value''.

On page 98, line 1, strike ''(27A)'' and insert (27B)''.

On page 107, line 9, strike ''and aggregating more than $250'' and insert ''for $400 or more per item or service''.

On page 107, line 11, strike ''90'' and insert ''70''.

On page 107, line 13, after ''dischargeable'' insert the following: ''if the creditor proves by a preponderance of the evidence at a hearing that the goods or services were not reasonably necessary for the maintenance or support of the debtor''.

On page 107, line 15, strike ''$750'' and insert ''$1,075''.

On page 107, line 17, strike ''70'' and insert ''60''.

Beginning on page 109, strike line 21 and all that follows through page 111, line 15, and insert the following:

SEC. 314. HOUSEHOLD GOOD DEFINED.

Section 101 of title 11, United States Code, as amended by section 106(c) of this Act, is amended by inserting before paragraph (27B) the following:

''(27A) 'household goods'—

''(A) includes tangible personal property normally found in or around a residence; and

''(B) does not include motor vehicles used for transportation purposes;''.

On page 112, line 6, strike ''(except that,'' and all that follows through ''debts)'' on line 13.

On page 113, between lines 3 and 4, insert the following:

(c) EXCEPTIONS TO DISCHARGE.—Section 523 of title 11, United States Code, is amended—

(1) in subsection (c), by inserting ''(14A),'' after ''(6),'' each place it appears; and

(2) in subsection (d), by striking ''(a)(2)'' and inserting ''(a) (2) or (14A)''.

On page 263, line 8, insert ''as amended by section 322 of this Act,'' after ''United States Code,''.

On page 263, line 11, strike ''(4)'' and insert ''(5)''.

On page 263, line 12, strike ''(5)'' and insert ''(6)''.

On page 263, line 13, strike ''(6)'' and insert ''(7)''.

On page 263, line 14, strike ''(4)'' and insert ''(5)''.

On page 263, line 16, strike ''(5)'' and insert ''(6)''.

AMENDMENT NO. 2753

(Purpose: 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, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. CONSUMER CREDIT.

(a) ENHANCED DISCLOSURES UNDER AN OPEN END CONSUMER CREDIT PLAN.—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) Repayment information that would apply to the outstanding balance of the consumer under the credit plan, including—

''(i) the required minimum monthly payment on that balance, represented as both a dollar figure and as a percentage of that balance;

''(ii) the number of months (rounded to the nearest month) that it would take to pay the entire amount of that balance, if the consumer pays only the required minimum monthly payments and if no further advances are made;

''(iii) the total cost to the consumer, including interest and principal payments, of paying that balance in full, if the consumer pays only the required minimum monthly payments and if no further advances are made; and

''(iv) the monthly payment amount that would be required for the consumer to eliminate the outstanding balance in 36 months if no further advances are made.

''(B)(i) Subject to clause (ii), in making the disclosures under subparagraph (A) the creditor shall apply the interest rate in effect on the date on which the disclosure is made until the date on which the balance would be paid in full.

''(ii) If the interest rate in effect on the date on which the disclosure is made is a temporary rate that will change under a contractual provision applying an index or formula for subsequent interest rate adjustment, the creditor shall apply the interest rate in effect on the date on which the disclosure is made for as long as that interest rate will apply under that contractual provision, and then apply an interest rate based on the index or formula in effect on the applicable billing date.''.

(b) CIVIL LIABILITY.—Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640(a)) is amended, in the undesignated paragraph following paragraph (4), by striking the second sentence and inserting the following: ''In connection with the disclosures referred to in subsections (a) and (b) of section 127, a creditor shall have a liability determined under paragraph (2) only for failing to comply with the requirements of section 125, 127(a), or paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 127(b), or for failing to comply with disclosure requirements under State law for any term or item that the Board has determined to be substantially the same in meaning under section 111(a)(2) as any of the terms or items referred to in section 127(a), or paragraph (4), (5), (6), (7), (8), (9), (10), or (11) of section 127(b).''.

Mr. DODD. Mr. President, I ask unanimous consent that these three amendments be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2754

(Purpose: To amend the Truth in Lending Act with respect to extensions of credit to consumers under the age of 21)

Mr. DODD. Mr. President, I call up amendment No. 2754 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself and Mr. KENNEDY, proposes an amendment numbered 2754.

Mr. DODD. Mr. President, I ask unanimous consent that the 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. ___. EXTENSIONS OF CREDIT TO UNDERAGE CONSUMERS.

(a) IN GENERAL.—Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

''(5) APPLICATIONS FROM UNDERAGE CONSUMERS.—

''(A) PROHIBITION ON ISSUANCE.—No credit card may be issued to, or open end credit plan established on behalf of, a consumer who has not attained the age of 21 unless the consumer has submitted a written application to the card issuer that meets the requirements of subparagraph (B).

''(B) APPLICATION REQUIREMENTS.—An application to open a credit card account by an individual who has not attained the age of 21 as of the date of submission of the application shall require—

''(i) the signature of the parent, legal guardian, or spouse of the consumer, or any other individual having a means to repay debts incurred by the consumer in connection with the account, indicating joint liability for debts incurred by the consumer in connection with the account before the consumer has attained the age of 21; or

''(ii) submission by the consumer of financial information indicating an independent means of repaying any obligation arising from the proposed extension of credit in connection with the account.''.

(b) REGULATORY AUTHORITY.—The Board of Governors of the Federal Reserve System may issue such rules or publish such model forms as it considers necessary to carry out section 127(c)(5) of the Truth in Lending Act, as amended by this section.

Mr. DODD. Mr. President, I say to my good friend from Iowa, I know he is concerned with the number of amendments and time. We have debated this amendment in the past. It will not be a new debate for our colleagues. I am more than happy to enter into an agreement, if he wants, to move the process along. I have three other amendments I have offered and laid aside which also can be dealt with quickly. I am more than prepared to enter into a time agreement when the manager wants to discuss that with me. I will be brief and explain what this amendment does and why it is an important one. I hope our colleagues will be willing to support it.

This amendment is very straightforward and just plain common sense and something most Americans have become familiar with already.

The amendment requires that when a credit card company issues a credit card to persons under the age of 21, the issuers of those credit cards obtain an application from that individual that does one of two things: One, either they have the signature of a parent, guardian, or other qualified individual willing to take financial responsibility for any debts that may be incurred; or, two, that the applicant provides information indicating the individual has independent means of repaying any credit card debt. One of those two things: Either have a guardian or some qualified person cosign to say they will assume the responsibility, or demonstrate the borrower has independent means of paying back their debts.

Why do I suggest this amendment is important and one we ought to do? It is becoming an alarming problem in the country. One of the most troubling developments in the hotly contested battle between the credit card issuers to sign up new customers has been the aggressive way in which these companies have targeted people under the age of 21, particularly college students.

Solicitations to this age group have become more intense for a variety of reasons. First of all, it is one of the few market segments in which there are always some new faces to go after. That certainly is understandable. Second, it is an age group in which brand loyalty can be established early on. Again, I understand that. In the words of one major credit card issuer, ''We are in the relationship business. We want to build relationships early on.''

Recent press reports have reported that people hold on to their first credit cards for up to 15 years. That makes sense to me. I do not argue with that. That is good business judgment. It is a new crowd coming along, and a company knows they can develop loyalties early on, and they want to establish that relationship as early as they can for those individuals.

I do not fault the credit card companies for those arguments or those ideas from a business perspective. What does worry me is that this solicitation and signing people up without having some information which indicates these credit cards are going to be paid for is creating a very serious problem, including significant dropouts from colleges because of the huge debts these individuals are accumulating.

In fact, people under the age of 21 are such a hot target for credit card marketers that the upcoming Card Marketing Conference 98 is calling one of its key sessions ''Targeting teens: You never forget your first card.''

Providing fair access to credit is something for which I have fought throughout my tenure in the Senate, and credit cards play a valuable role in pursuing the American dream. Some credit card issuers, however, have, in

my view, gone too far in their aggressive solicitations. They irresponsibly target the most vulnerable in our society and extend them large amounts of credit with absolutely no regard to whether or not there is a reasonable expectation of repayment.

On my first chart, I bring to my colleagues' attention a recent story reported in the Rochester Democrat and Chronicle in the State of New York. The article relates to the story of a 3-year-old child who recently received a platinum credit card with a credit card limit of $5,000. The credit card issuers are also enticing college students.

In the Rochester News, a 3-year-old Rochester toddler was issued a platinum credit card after the mother jokingly returned an application sent to the child. The child's mother told the bank that the child's occupation was ''preschooler'' and left the income portion of the application a total blank. A few weeks later, the tot received a $5,000 credit card limit.

This is how insane the process has become—filling out the application, listing your application as a preschooler, and showing no source of income, and you get $5,000 worth of credit.

We know in this day and age of high technology that these companies certainly have the capacity of distinguishing—I hope—between a preschooler with no source of income and providing them with $5,000 worth of credit.

Credit card issuers are also enticing colleges and universities to promote their products. Professor Robert Manning of Georgetown University told my staff recently that some colleges receive tens of thousands of dollars per year for exclusive marketing agreements. Other colleges receive as much as 1 percent of all student charges from the credit card issuer in return for marketing or affinity agreements. Even those colleges that do not enter such agreements are making money.

Robert Bugai, president of the College Marketing Intelligence, told the American Banker recently that colleges charge up to $400 per day for each credit card company that sets up a table on their campuses. That can run into tens of thousands of dollars by the end of just one semester.

Last February, I went to the main campus of the University of Connecticut in my home State to meet with student leaders about this issue. Quite honestly, I was surprised at the amount of solicitations going on in the student union. Frankly, I also was surprised at the degree to which the students themselves were concerned about the constant barrage of offers they were receiving for credit cards.

The offers seemed very attractive. One student who was an intern in my office this summer received four solicitations in 2 weeks from credit card companies. One promised ''eight cheap flights while you still have 18 weeks of vacation.'' Another promised a platinum card with what appeared to be a low-interest rate until you read the fine print that it applied only to balance transfers, not to the account overall. Only one of the four, Discover card, offered a brochure about credit terms—and I commend them for it—but, in doing so, also offered a spring break sweepstakes to 18-year-olds.

In fact, the Chicago Tribune recently reported the average college freshman receives 50 solicitations during the first few months at college. The Tribune further reported college students get green-lighted—a green light, no yellow light, a green light—for a line of credit that can reach more than $10,000 just on the strength of a signature and a student ID; $10,000 worth of credit at the age of 18 with just your student ID and a signature.

Who do you think is going to pay those bills? The parents do. They get socked with it in the end. We have to have some restraint, some controls on this. We have a huge problem with the amount of debt that is being accumulated by children or being passed on to their parents without any requirements at all that they meet some basic minimum standards, either independent sources of income or a cosignature by someone who can demonstrate the ability to pay.

It is a serious public policy question about whether people in this age bracket can be presumed—and that is what they are doing—presumed to be able to make the sensible financial choices that are being forced upon them from this barrage of marketing.

While it is very difficult to get reliable information from the credit card issuers about their marketing practices to people under the age of 21, the statistics that are available are deeply troubling. Let me share some of them with you.

Let me put up chart No. 2, if I may. ''Collegiate credit cards increasing.'' This article appeared just a few days ago in the Washington Post here in the Nation's Capital. Let me share what the Post talked about. I quote them:

> Alarmed by the trend, hundreds of colleges in recent years have forbidden credit card companies to solicit on their campuses, and Virginia lawmakers are thinking of imposing such a ban at all the State's colleges. Nine other States are considering similar measures.

The Post goes on to report that:

> An estimated 430 colleges have banned the marketing of credit cards on their campuses.

The statistics on college credit card debt are truly frightening.

Nellie Mae, a major student loan provider in the New England States, conducted a recent survey of students who had applied for student loans. It termed the results ''alarming.'' The survey found that 27 percent of their undergraduate student applicants had four or more credit cards. It found that 14 percent had credit card balances between $3,000 and $7,000, while another 10 percent had balances in excess of $10,000.

Let me repeat those statistics because they are truly alarming. Twenty-seven percent of college students already had four credit cards; 14 percent had credit card balances between $3,000 and $7,000; and 10 percent had credit card balances that were greater than $7,000. That is 24 percent; that is one out of every four who have debt somewhere between $3,000 and above $7,000—one out of every four college students with that kind of debt while they are trying to pay off student loans and other matters. This is incredible in terms of the amount of obligations, while still virtually children in many cases.

This figure of 24 percent with credit card balances in excess of $3,000 is more than double the number from last year when I stood on this floor and offered a similar amendment. The trend lines are alarming.

My hope with this amendment, which does not ban at all the solicitation among college students—if colleges want to allow them to go and solicit, they can—but the amendment merely says two things: Either have a guardian or a qualified person cosign, or show you have the independent means of paying the credit card debt you incur.

That is something you would think the credit card companies would want to do themselves. Why do they not want this information? Why are they willing to extend up to $10,000 worth of debt merely on a student signature and an ID? It seems to me that is the height of irresponsibility. Then they come around and complain that there is too much debt in the country and they want to tighten up the bankruptcy laws.

Why not tighten up your own process? Why not ask for some basic information of these young people before watching them build up the kind of debt they may spend years trying to pay back? It seems to me that if they are unwilling to impose some restraints on who can incur this kind of debt, we have an obligation to set some minimum standards.

Again, it does not ban them from going out to solicit young people to become credit card holders. If the young person can have their parents or a guardian cosign, or if they can demonstrate independent means of payment, no problem, they get their credit card. But just on a student ID, and just on their signature, I think this body ought to be on record as saying that is what is creating some of the real debt problems in the country. We ought to put a stop to it.

I mentioned the numbers. Moreover, while there is still evidence that student debt is skyrocketing, some surveys by credit card issuers themselves show that this same group of consumers is woefully uninformed about basic credit card terms and issues.

A 1993 American Express/Consumer Federation of America study—done only about 5 or 6 years ago—found that

only 22 percent of the more than 2,000 college students surveyed knew that the annual percentage rate is the best indicator of the true cost of a loan. Only 30 percent of those surveyed knew that each bank sets the interest rate on their credit cards, so it is possible to shop around for the best rate. Only 30 percent knew that the interest rate was charged on new purchases if you carried a balance over from the previous month.

Some college administrators, bucking the trend to use credit card issuers as a source of income, have become so concerned that they have banned credit card companies from their campuses, as I mentioned, and even have gone so far as to ban credit card advertisements from the campus bookstores.

Roger Witherspoon, the vice president of student development at John Jay College of Criminal Justice in New York, banned credit card solicitors, saying indebtedness was causing students to drop out. I quote him:

Middle class parents can bail out their kids when this happens, but lower income parents can't.

In fact, I argue with the statement. I do not think middle-income parents can either. Only the most affluent parents would be able to bail out their children from the kind of debts many of them are incurring.

But he goes on to say:

Kids only find out later how much it messes up their lives [when this debt occurs].

If I may, this is chart No. 3, which is from the Consumer Federation of America. This came out last June. The Consumer Federation of America says:

The average college student who does not pay off his or her balance every month now has an average debt of over $2,000.

The average college student who does not pay off their balance every month has a credit card debt of over $2,000.

One-fifth—

One out of every five—

of these students have debts of more than $10,000. A number of colleges are now citing credit card debt as the most significant cause of college disenrollment.

Here we stand, day after day, week after week, talking about how important it is to get young people into higher education and to keep them there. This ought to be a matter of bipartisan concern.

I know the credit card companies are working overtime on this. But if one of the major causes of disenrollment in higher education is credit card debt—where one out of every five students in this country has debt in excess of $10,000, and the average student who does not pay their monthly balance has a $2,000 debt—then something is drastically wrong that cries out for some solution.

Again, I think banning credit card companies from college campuses, that ought not to be our decision; leave that up to the college campuses. Not allowing them to put their advertisements in bookstores, that ought to be the college's decision, not the Congress'.

But I do not think it is too much to say that we ought to require, as part of a bankruptcy bill, when we are trying to reduce the amount of bankruptcy filings in this country, that you either have to have someone who will cosign with you, if you are under the age of 18, or that you have an independent demonstration of the ability to pay.

I see my good friend from Utah has arrived. We now know that one of the most significant reasons of disenrollment in colleges is credit card debt. My colleague from Utah, who cares so much about higher education, ought to be deeply alarmed. The trend lines are dreadful. It is just dreadful what is occurring. Unless we do something to try to put some restraints on this, we are going to have this problem continue to mount.

As I said earlier, this amendment does one of two things: If you are under 21, have a guardian, a parent, a qualified person cosign, or demonstrate you can pay, and then you get your credit card. But to say you get a credit card with a student ID and your signature alone, and to be able to mount up this kind of debt, crippling these people from ever being able to get out from underneath their obligations, I think is outrageous.

The amendment I am proposing does not take any draconian action against the credit card industry. I agree with those who argue that there are many millions of people under the age of 21, who hold full-time jobs, who are as deserving of credit cards as anyone over the age of 21. I also agree that students should continue to have access to credit. They should not try to prohibit the marketing for making credit cards available to these people.

I also recognize that the period of time from 18 to 21 is an age of transition from adolescence to adulthood. As we do in so many other places in the Federal law, some extra care is needed to make sure that mistakes made from youthful inexperience do not haunt these people for the rest of their lives. All my amendment does is require that a credit card issuer, prior to granting credit, obtain one of two things from the applicant under the age of 21: Either they get a signature from a parent, a guardian, a qualified individual, or obtain information that demonstrates that that person between the ages of 18 and 21 has the capability of paying it back.

This is a vulnerable period. This is an exciting time in their lives. For many, it is the first time they are away from home. They are living on their own, independent. All of a sudden, as we know, you get 50 credit card solicitations in the space of one semester; in the case of the intern in my office, offering college sweepstakes, springs breaks, all sorts of enticements. You sign up. Before you know it, you have incurred $2,000, $3,000, $4,000, $6,000 worth of debt. You are 18 or 19 years of age. Then they come after you to pay. They don't give you a break and say: We will wait until you get through college. We will wait until you are 25 or 30 to pay it back. They want their money right away. They want to get it, immediately, if they can.

What happens, as we now find out, is one of the reasons for disenrollment in college—for one out of five students, $10,000 worth of debt by the time they are 19 or 20 years of age. By the way, on $10,000, the way the annual rates go and so forth, that probably means something like $30,000 or $40,000 because they can't pay it off all at once. By the time they get out from underneath this rock, it could end up being a fortune for them as they start out their lives with dreams and aspirations and hopes.

Again, I don't object to the credit card companies soliciting, advertising, if that is what they want to do and want to have them on board. But why do you allow an 18-year-old to get this kind of a debt with a student ID and a signature? You don't let that happen with older people. You demand some sort of information about their ability to pay. Why do you say to an 18-year-old that you can be treated so differently than someone who is 25 or 30, where they need demonstrations of ability to pay? Why shouldn't we say that if you are going to solicit an 18-year-old, at least show that they can pay it back. They may not be able to, but at least require that or have a guardian or an adult sign on.

Federal law already says people under the age of 21 shouldn't drink alcohol. We made that statement. I know my colleague from Utah was a strong supporter of that. We don't allow you to drink anymore on college campuses unless you are 21 or older because we were worried about them. We were worried what would happen to them. Isn't this a problem as well, this kind of debt they can incur?

The Tax Code makes the presumption that if someone is a full-time student under the age of 23, they are financially dependent on their parents or guardians. The Tax Code makes that presumption. Is it so much to ask that credit card issuers find out if someone under the age of 21 is financially capable of paying back the debt or that their parents are willing to assume the financial responsibility or someone else? Again, I know there are a lot of young people who are out working full-time jobs and going to school simultaneously. This isn't a big burden —they need to have that credit card—to say to them, look, just demonstrate, through a W–2 form or something, that you can pay back or you have the ability to pay back. That is not a lot to ask. Believe me, the credit card companies can do it on the Internet. They can do it in a matter of a nanosecond if they want to.

Why don't they want to? What is the hesitation? Don't tell me it is the bureaucracy. It is not the bureaucracy. They require it of adults who are older than that. They don't give platinum credit cards out to people who are not

in college without getting some information about their ability to pay. Why is it in this age group that they are willing to give it to you on a signature and a student ID? I think we all know the answer why. It is outrageous. It is getting worse all the time. I mentioned to you the numbers have almost doubled in a year in terms of the amount of debt being held. Last year, when I offered the amendment, it was $3,000. Now it is at almost $7,000 worth of debt they are incurring.

I hope our colleagues will be willing to support this modest amendment. It is not a great deal to ask. As I mentioned, 430 colleges have banned credit cards from soliciting on their campuses. They know what the problem is. When we have the president of one of the major criminal justice schools in the country talk about what a drastic problem this is having on enrollment, these are serious people. They are not anticredit card. They are not antibusiness. They are not against young people having credit cards. They see what is happening on their campuses. We ought to pay attention to them and listen to them. To ignore them or to say it doesn't make any difference would be an outrage.

How can we pass a bankruptcy bill, as we try and cut down on the number of bankruptcies, and allow this situation to persist where one out of every five college students has $10,000 of credit card debt? How can we allow that to persist without setting some minimum standards that these people have to meet before they can incur that kind of debt? I suspect the credit card companies will be probably lax in what minimum standards they might even permit, but at least it might put the brakes on a little bit, just a little bit.

We have also received some strong endorsements of this amendment: the American Federation of State County Municipal Employees; the Communication Workers of America, International Brotherhood of Boilermakers, Blacksmiths; International Brotherhood of Teamsters; the Union of Needletrades, Industrial & Textile Employees; the United Automobile, Aerospace and Agricultural Implement Workers; United Food & Commercial Workers International, representing millions of working families.

Why do the unions care about a credit card bill? Because these are the parents of these kids. That is why they care about it. This isn't a union issue. These are the hard-working parents who are working two and three and four jobs to send their kids to college. They turn around and some credit card company mounts up a $10,000 debt on their back. Their kids have to drop out, after they have worked 20 or 30 years, saving to put their families through school, understanding the value of a higher education. Now the credit card companies say, no, that is too much to ask of us. You are asking way too much, that we require an 18-year-old to have a cosigner of the credit card application or to show that they have the means of paying back the debt. That is why the millions who are represented by these unions have offered such strong support of this legislation.

Mr. President, I ask unanimous consent that this letter be printed in the RECORD at this juncture.

There being no objection, the letter was ordered to be printed in the RECORD, AS FOLLOWS:

NOVEMBER 8, 1999.

DEAR SENATORS KENNEDY AND DODD: We support your amendment to the bankruptcy bill (S. 625), that would prohibit credit card issuers from recklessly extending credit to young people who do not have adequate means to repay their debts. Predatory lending by card issuers is one of the most significant reasons why the number of bankruptcies among those under age 25 has grown by 50 percent since 1991.

This amendment would prohibit the issuance of credit cards to persons under age 21, unless a parent, spouse, guardian or other individual acts as co-signer, or the minor can demonstrate an independent source of income sufficient to repay. The amendment would not limit the extension of credit to the millions of working young Americans who have an adequate income and are as deserving of credit as anyone over the age of 21.

The serious problem of predatory lending by credit card issuers to young people has been well-documented. Credit card issuers aggressively target young people, especially college students. It is nearly impossible for students, including those in high school, to avoid credit card pitches. Students now receive cards at a younger age, with 81 percent of students who have at least one card having received it before college or during their freshman year.

The level of revolving debt among young people is rising to alarming levels, with sometimes tragic consequences. Family tensions arise as parents attempt to pay off these obligations. Poor credit ratings hinder young people in the job and real estate markets. Students are forced to drop out of school to pay off their credit card debt.

Credit card issuers are well aware that most young people lack basic skills in personal finance. A recent survey (1997) of the financial literacy levels of high school seniors showed that only 10.2% scored a ''C'' or better and that students who use credit cards know no more about them then students who don't.

This amendment is consistent with the opinion of the American public. An April, 1999 poll by the Consumer Federation of America/Opinion Research Corporation International found overwhelming support at all age groups for the terms proposed by this amendment. We join them in supporting it.

Thank you for your leadership on this important issue.

American Federation of State, County & Municipal Employees (AFSCME); Communication Workers of America (CWA); International Brotherhood of Boilermarkes, Iron Ship Builders, Blacksmiths, Forgers & Helpers; International Brotherhood of Teamsters; Union of Needletrades, Industrial & Textile Employees (UNITE); United Automobile, Aerospace and Agricultural Implement Workers of America (UAW); United Food & Commercial Workers International Union (UFCW); United Steelworkers of America (USA).

Mr. DODD. I hope we can get a strong vote on this amendment. This shouldn't take much time. It is very little to ask. The credit card companies are the ones who have asked for this bill on bankruptcy reform. I am sympathetic to the bill because I do think there are far too many bankruptcies in the country. If we are to try to reduce the number of bankruptcies, we have to reduce the rationale or the reason why people are going to the bankruptcy courts in the first place. These are not all evil people. These are not all scam artists who are trying to game the system. The overwhelming majority of people who go to a bankruptcy court have gotten in way over their heads. You can say they have been irresponsible. That may be the case.

But I will tell you, for an awful lot of families, they have kids in college and those adolescent kids became irresponsible. I know of very few who don't get irresponsible in their adolescent years. The danger today is that they can get deeply in trouble. It isn't just a college prank that may get them in trouble. Now you have major credit card companies dumping 50 solicitations into their mailboxes in their dormitories in the first semester in college. With a student I.D. and a signature, they get themselves $10,000 into trouble. Requiring these companies to at least get some basic information may slow down this process. It will do a lot to reduce the volume of bankruptcies in this country, to reduce the ability of an 18- or 19-year-old, with no independent means of paying back their debts, from getting these cards in the first place, and saving these families the anguish and heartache and the dashed dreams that a young college student has when they go off for the first time. Many of them, by the way, are the first people in their families ever to go to college. Think how the families feel—the excitement, the thrill of a young person going off to college, from a blue collar working family in this country who never had that opportunity. All of a sudden they get a deluge of platinum credit cards flooding their mailboxes, the kids sign up, and the dreams of a family go down the drain in a matter of weeks.

This ought not to be a Democrat or Republican issue, conservative or liberal issue. This is a commonsense issue. This is basic common sense, which says to these companies that, with 18- to 21-year-olds, there has to be some cosigner, or some demonstration of an independent means to pay back. If you turn down this amendment and you turn around and say we ought to stop these bankruptcies, then you make it harder for these families to get out of these obligations and straighten out their lives. I know an awful lot of good people who have gotten themselves behind the eight ball financially; they are not evil, bad people. Because they get into a little trouble, particularly at 18 or 19 —and one out of five of them are $10,000 in debt—doesn't mean they ought not to have an opportunity to straighten things out. The best way is not to get into trouble in the first

place. The way not to get into trouble in the first place is to put some governor—you know how we do with automobiles with young people, where the car can't go more than 60 miles an hour, because we know there is a danger of a young person going too fast. Why not put a governor here on the credit card companies and slow them down. They can make their solicitations, send the solicitations in there, but require that these young people have a cosigner or a demonstration of an independent means to pay. If they can't do that, then you move on to someone else who can. But don't sign up a young person and put them and their family into harm's way and pass a bankruptcy bill that doesn't allow them to take the bankruptcy act when those debts mount up.

So I hope that our colleagues will support this amendment. This will be a good way for us to build strong bipartisan support for this bill.

With that, I yield the floor.

The PRESIDING OFFICER. The chair recognizes the Senator from Utah.

Mr. HATCH. Mr. President, I have to rise in opposition to the amendment offered by the distinguished Senator from Connecticut, Mr. DODD. It would require young adults under the age of 21 to obtain parental consent or demonstrate an ''independent means of repaying'' in order to get a credit card. This amendment also caps the amount of credit a young adult can get to $1,500.

Mr. President, I believe this amendment is well-intentioned. However, if adopted, it would unfairly put young adults between the ages of 18 and 21 at a disadvantage by putting serious obstacles in their way, or, in some cases, bar them from obtaining credit cards altogether. Young adults today, whether they are serving in our Nation's military, or going to college, or trying to support a young family, do not need these hurdles placed in their path. This amendment would have an adverse effect on temporarily unemployed adults over the age of 18 who are independent of their parents, the twenty-year-old single mother, the twenty-year-old discharged from the military service, or a twenty-year-old worker between jobs—often the very person most needing the extension of credit.

I understand how difficult times can be for young adults. When I was 16 years of age, I was a skilled building tradesman. I knew a trade. I went through a formal apprenticeship and became a journeyman. I was proud of it. I was capable of supporting my family at that time. I worked as a janitor to put myself through college. I believe it is an insult to young adults to put in doubt their ability to get credit.

In addition, this amendment does not appear to be well thought out. For example, it makes absolutely no provision for young adults who may be estranged from their parents or whose parents or guardians may be deceased. It is also unclear what new burdens will be placed on lenders to verify the authenticity of a parent's or guardian's signature. I also can't resist pointing out that many of the very same folks who oppose parental consent for abortion are in favor of parental consent for getting a credit card. That seems a little odd to me.

I can appreciate that there have been some instances when young adults have been extended credit beyond their ability to repay. But it does not strike me as a reasoned public policy, in an effort to tackle the occasional abuse, to discriminate against the many honest, hard-working, decent young people between the ages of 18 and 21 who rely on credit to make their lives a little bit more livable, or even sustainable.

I also must point out that individuals under age 18 cannot enter into binding contracts, and therefore any credit inadvertently extended to them is unenforceable.

The amendment would undermine a fundamental purpose of bankruptcy reform: to make individuals take more responsibility for their personal finances. I believe that the vast majority of young adults between the ages of 18 and 21 are responsible citizens, and they do not need the big Government to tell them what they can or cannot do in this area. I oppose treating adults as if they are children; therefore, I have to oppose this amendment.

Let me make a correction. This amendment does not place a cap on the amount of credit a minor can get. I misspoke and I confused it with an amendment filed that was identical to this, only it does have the cap. So I will make that clear and make that correction.

Mr. DODD. Will my colleague yield for another correction?

Mr. HATCH. Yes.

Mr. DODD. It says parents, guardians, or any other qualified person can cosign. It is not limited to parents. If the parents were deceased or the guardians were deceased, a qualified person could cosign. So we allow for a broader range of options here.

Mr. HATCH. I thank the Senator. I will certainly make that correction.

I still believe we ought to treat them as young adults. We ought to recognize that many people who really qualify for credit cards in these age groups ought to be able to get them with or without anybody else's consent. Many of them live up to the obligations that they incur; in fact, most of them do. I don't think we should, as a public policy matter, make this particular change that my dear friend from Connecticut has suggested. We are sending these young men and women over 18 years of age to war. They can vote at 18. They can do almost anything. Now we want to take away their right to have a credit card. I think that is bad public policy. I hope our colleagues will defeat this amendment when it comes up for a vote. With that, I believe we are ready to recess.

Mr. DODD. Mr. President, I just have one minute in response. As my friend from Utah knows, shortly, we have an amendment that we are going to offer together on this bill. I am sorry we don't agree on this. As I mentioned earlier, we do set some restrictions. We can send men and women to war at age 18, but we don't allow them to drink; we set a standard of 21. We did so because of the dangers that we decided alcohol posed to young people. The Tax Code says there is a rebuttable presumption that at 23-year-old college student has an obligation that shifts to parents.

All I am requiring here is that the credit card companies, when they solicit an 18 or 19 year old, require that they show they have the independent means of paying for it or that they have a guardian or a qualified person who will cosign. The same thing would be required of someone else. One out of five students has $10,000 worth of financial debt and obligation. We are being told now one of the single largest reasons for disenrollment in higher education is because of this mounting—and it has doubled in the last two years—amount of credit card debt among 18-, 19-, and 20-year-olds.

It ought not to be a great deal to ask they meet these basic, simple requirements. They can solicit; they can collect. If they can sign them up, God bless them, go to it. However, for a student ID and a signature to get $10,000 worth of debt for one out of five college students—and the average student has $2,000 worth of debt and was not paying the monthly payments—is too much for the families to be burdened with.

I ask unanimous consent a letter from the Consumer Federation of America, the Consumers Union, the National Consumer Law Center, the U.S. Public Interest Research Group, and the U.S. Student Association, all of which support this amendment, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NOVEMBER 8, 1999.

RE: Support for Dodd/Kennedy Amendment #2754 to Bankruptcy Bill

DEAR SENATOR, The undersigned organizations strongly support this amendment to the bankruptcy bill regarding the extension of credit to young Americans. This common sense proposal would forbid banks and other credit card issuers from granting credit to any person under 21 years-of-age, without the signature of a parent or guardian or proof of an independent means of repaying the debt incurred.

This amendment would not result in denials to credit-worthy young people, but it would protect financially unsophisticated young consumers from being enticed into a financial trap. A recent study by the Consumer Federation of America found that previous research has underestimated the extent of credit card debt by college students, as well as the social impact of this debt on students. The study documents the consequences of high levels of indebtedness for many students, including dropping out of college, difficulty finding good jobs, and in

particularly tragic circumstances, extreme psychological stress and suicide.

Minors are increasingly targeted in credit card marketing campaigns. Direct solicitation of college students has intensified significantly in the past few years as high profitability has encouraged card issuers to take on riskier customers. Cards are available to almost any student with no income, no credit history and no parental signature required. Issuers know that young customers are often ''brand loyal'' to their first card for many years. They also know that many parents will pay off excessive credit card debt accumulated by their children, even though they are under no legal obligation to do so.

As a result, approximately 70 percent of undergraduates at four-year colleges possess at least one credit card. Moreover, students are obtaining their first credit card at a young age. Accordingly to the non-profit student loan provider Nellie Mae, 66 percent of college students with at least one card received their first card before college or during their freshman in 1996. By 1998, 81 percent had received their first card by the end of their freshman year.

Student credit card debt is larger than previously estimated. The Consumer Federation of America study found that college students who do not pay off their balances every month have an average debt of more then $2,000, with one-fifth of these students carrying debts of more than $10,000. Additional credit card debt is often ''refinanced'' with student loans or with private debt consolidation loans. At some schools, college loan debt averages $20,000 per graduating senior.

More than one quarter of all students reported paying late on a credit card at least once in the last two years, according to a 1998 survey by the U.S. Public Interest Research Group. One-quarter of students questioned in the survey also reported using a cash advance to pay their debts. Poor credit records and credit card defaults have lasting consequences, including the classification of the student as a high risk/high rate borrower and decreased access to rental housing, car loans and home mortgage loans.

Many colleges and universities not only permit aggressive credit card marketing on campus; they actually benefit financially from this marketing. Credit card issuers pay institutions for sponsorship of school programs, for support of student activities, for rental of on-campus solicitation tables, and for exclusive marketing agreements, such as college ''affinity'' credit cards.

Card issuers are well aware that high school and college students don't have basic financial skills. A 1993 survey of college juniors and seniors by the Consumer Federation of America and American Express found:

Just 22 percent knew that the APR was the best indicator of the cost of a loan;

Just 30 percent knew that interest rates on credit cards are set by the issuing bank, not Visa, MasterCard of the government;

Just 30 percent knew that the grace period was not available when a credit card balance is carried from month-to-month.

The American people strongly support restricting aggressive lending practices by credit card issuers. A national poll conducted for the Consumer Federation of America in April 1999 by Opinion Research Corporation found that 80 percent of those surveyed supported restrictions on the extension of credit cards to people under age 21.

Without this reasonable amendment, direct solicitation of college and high school students without the ability to repay will continue unabated. For more information, contact Travis Plunkett at (202) 387–6121.

Sincerely,

Travis B. Plunkett, Consumer Federation of America; Frank Torres, Consumers Union; Gary Klein, National Consumer Law Center; Ed Mierzwinski, U.S. Public Interest Research Group; Kendra Fox-Davis, U.S. Student Association.

Mr. HATCH. I ask unanimous consent to set the Dodd amendment aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. I ask unanimous consent I be given an extra minute and a half.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2536

(Purpose: To protect certain education savings)

Mr. HATCH. Mr. President, I ask unanimous consent to call up amendment No. 2536, a Hatch-Dodd-Gregg amendment relating to the protection of educational savings accounts.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH], for himself and Mr. DODD and Mr. GREGG, proposes an amendment numbered 2536.

Mr. HATCH. 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 83, between lines 4 and 5, insert the following:

SEC. 2___. PROTECTION OF EDUCATION SAVINGS.

(a) EXCLUSIONS.—Section 541 of title 11, United States Code, as amended by section 903, is amended—

(1) in subsection (b)—

(A) in paragraph (5), by striking ''or'' at the end;

(B) by redesignating paragraph (6) as paragraph (8); and

(C) by inserting after paragraph (5) the following:

''(6) funds placed in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) not later than 365 days before the date of filing of the petition, but—

''(A) only if the designated beneficiary of such account was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were placed in such account;

''(B) only to the extent that such funds—

''(i) are not pledged or promised to any entity in connection with any extension of credit; and

''(ii) are not excess contributions (as described in section 4973(e) of the Internal Revenue Code of 1986); and

''(C) in the case of funds placed in all such accounts having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000;

''(7) funds used to purchase a tuition credit or certificate or contributed to an account in accordance with section 529(b)(1)(A) of the Internal Revenue Code of 1986 under a qualified State tuition program (as defined in section 529(b)(1) of such Code) not later than 365 days before the date of filing of the petition, but—

''(A) only if the designated beneficiary of the amounts paid or contributed to such tuition program was a son, daughter, stepson, stepdaughter, grandchild, or step-grandchild of the debtor for the taxable year for which funds were paid or contributed;

''(B) with respect to the aggregate amount paid or contributed to such program having the same designated beneficiary, only so much of such amount as does not exceed the total contributions permitted under section 529(b)(7) of such Code with respect to such beneficiary, as adjusted beginning on the date of the filing of the petition by the annual increase or decrease (rounded to the nearest tenth of 1 percent) in the education expenditure category of the Consumer Price Index prepared by the Department of Labor; and

''(C) in the case of funds paid or contributed to such program having the same designated beneficiary not earlier than 720 days nor later than 365 days before such date, only so much of such funds as does not exceed $5,000; or''; and

(2) by adding at the end the following:

''(f) In determining whether any of the relationships specified in paragraph (6)(A) or (7)(A) of subsection (b) exists, a legally adopted child of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), or a foster child of an individual (if such child has as the child's principal place of abode the home of the debtor and is a member of the debtor's household) shall be treated as a child of such individual by blood.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 105(d), 304(c)(1), 305(2), 315(b), and 316 of this Act, is amended by adding at the end the following:

''(k) In addition to meeting the requirements under subsection (a), a debtor shall file with the court a record of any interest that a debtor has in an education individual retirement account (as defined in section 530(b)(1) of the Internal Revenue Code of 1986) or under a qualified State tuition program (as defined in section 529(b)(1) of such Code).''.

Mr. HATCH. Mr. President, I thank Senator DODD for his efforts and cooperation in working on this important amendment.

I am pleased to offer along with Senators DODD and GREGG, an amendment to S. 625, the Bankruptcy Reform Act of 1999, that will protect education IRAs and qualified State tuition savings programs in bankruptcy. Education IRAs and qualified State tuition savings programs permit parents and grandparents to contribute funds for the tuition and other higher education expenses of their children and grandchildren. Under current bankruptcy law, creditors may access such accounts to satisfy debts owed by parents and grandparents.

The amendment I offer today balances the interest of encouraging families to save for college, with the interest of preventing the potential abuse of transferring funds into education savings accounts prior to an anticipated bankruptcy. Specifically, the amendment provides that contributions to education savings accounts made during the year immediately prior to the bankruptcy filing are not protected in bankruptcy and may be accessed by creditors; contributions up to $5,000 per beneficiary made in the second year prior to filing, however, are protected, as are all contributions made more than 2 years prior to the bankruptcy

filing. To combat potential abuse, debtors must disclose their full interest in such accounts in the statement of financial affairs filed with the bankruptcy court. With respect to education IRAs, there is no limit on the amount that may be excluded from the bankruptcy estate, though the size of education IRAs are effectively limited by the $500 annual contribution limit. With respect to qualified State tuition savings programs, the excluded amount is the full, State-established amount deemed necessary to provide for the qualified education expenses of a beneficiary.

College savings accounts encourage families to save for college, thereby increasing access to higher education. In my home State of Utah, 775 children, with account balances nearing $1.2 million, are beneficiaries of such accounts. Nationwide, over one million children benefit from such accounts. Bona fide contributions to such college savings accounts, which are made for the benefit of children, should be beyond the reach of creditors. The ability to use dedicated funds to pay the educational costs of current and future college students should not be jeopardized by a bankruptcy of their parents or grandparents. The amendment I offer today prevents bona fide educational accounts of children from being accessed by their parents' or grandparents' creditors, while also protecting this exclusion from being abused as a means of sheltering assets from the bankruptcy estate.

I urge your support of this amendment.

Mr. DODD. I ask unanimous consent I be able to speak for up to 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. I know this will be somewhat confusing to people watching the debate over the last 15 or 20 minutes, but this is an amendment offered by my distinguished friend and colleague from Utah of which I am a cosponsor. This is a very good amendment. We hope our colleagues will support it.

Many parents have put aside money for college education in special accounts. This ought not to be the subject of first attack when creditors come after family income.

I commend my colleague from Utah for trying to preserve and protect these resources which working families spend years trying to accumulate, and then get behind the 8 ball for problems that may not be of their own making, and all of a sudden the resources are subject to attack. This is a good amendment that will strengthen working families' ability to educate their children. I commend my colleague from Utah for offering it. I am pleased to be a cosponsor of it.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. I ask unanimous consent, notwithstanding the order for recess, I be permitted to speak for 2 minutes as in morning business.

Mr. FEINGOLD. Mr. President, I ask unanimous consent, as part of the request of the Senator from Missouri, I be allowed to speak for up to 12 minutes. At the conclusion of the 12 minutes, I will call up an amendment.

Mrs. LINCOLN. I ask unanimous consent to be able to address the Senate as in morning business for 7 minutes.

The PRESIDING OFFICER. The problem is, the previous order says 12:30 so we can attend policy conferences. That runs me past the time for making decisions as a part of that conference.

Is there a way to reduce the time so we can complete statements by 12:45?

Mr. BOND. I just asked for 2 minutes, and I will make it shorter than that.

Mr. FEINGOLD. Mr. President, the managers have asked Members to offer amendments. I am trying to offer an amendment. I need 11 minutes in order to present the amendment. I am trying to facilitate the progress on the bill. I thought this would be a good opportunity. It is a total of 11 minutes. The conferences don't really begin in earnest until 1 o'clock anyway.

I renew my request to be granted 12 minutes total.

Mrs. LINCOLN. I will certainly try to complete my statement in 5 minutes.

The PRESIDING OFFICER. The Chair objects.

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 12:35 p.m., recessed until p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. INHOFE].

Mrs. LINCOLN. Mr. President, I ask unanimous consent to proceed in morning business for 7 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

LITTLE ROCK NINE AND DAISY BATES

Mrs. LINCOLN. Mr. President, mere words seem inadequate to honor the courage of some people and so I am humbled to lend my voice to the chorus of praise for the Little Rock Nine, who today will receive the Congressional Gold Medal, and I will also speak in remembrance of Daisy Bates, a daughter of Arkansas and a civil rights activist.

Receiving the medal today are: Jean Brown Trickery, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wait, Ernest Green, Elizabeth Eckford, and Jefferson Thomas. As teenagers, when they bravely walked through the doors of Central High School in Little Rock, they led our Nation one step closer to social justice and equality. While it is still painful to look at pictures from that time, where white teens sneered at their black peers, seeing the harsh face of hatred opened our Nation's eyes and propelled the civil rights movement forward.

Before the ''Crisis of 1957,'' as some call the events at Central High, Little Rock was not associated with the pervasive segregation of the Deep South. In fact, Little Rock was considered quite a progressive place and some schools in Arkansas had already integrated following the Brown v. Board of Education decision in May of 1954. So, when nine students sought to integrate Central, few Arkansans envisioned a confrontation with the National Guard at the schools entrance. And I doubt many imagined the long-lasting, profound effects of this confrontation on the entire State. While the country witnessed countless images of this face-off, they were not necessarily aware of the continuing abuse endured by the Little Rock Nine, or the fact that Central High School had to be closed because the atmosphere was so hostile.

Now, we all know that the high school years aren't easy for any teenager. For these men and women, high school was inordinately difficult. In addition to enduring the verbal taunts and even beatings, some had to uproot to other schools in the middle of the school year. Luckily for Carlotta, Thelma, Ernest, Jefferson, and the others, a woman named Daisy Bates entered their lives as a ''guardian angel'' of sorts.

According to Daisy's own accounts and those of the Little Rock Nine, the students would gather each night at the Bates' home to receive guidance and strength. It was through the encouragement of Daisy Bates and her husband, L.C., that these young men and women were able to face the vicious and hateful actions of those so passionately opposed to their attendance at Central. Ironically, Daisy Bates passed away last Thursday. She was laid to rest this morning, the very day the Little Rock Nine will receive their medals. I know she is with us in spirit—acting again as a guardian angel to these brave men and women. This great woman leaves a legacy to our children, our State and our Nation: a love of justice, freedom, and the right to be educated. As a result of her efforts, the newspaper Mrs. Bates and L.C. published was forced to close. She and L.C. were threatened with bombs and guns. They were hanged in effigy by segregationists. But Daisy Bates persevered. She did all this, withstood these challenges, because she loved children and she loved her country. She had an internal fire, instilled in her during a childhood spent in Huttig, AR. And this strong character shone through as she willingly took a leadership role to battle the legal and political inequities of segregation in our state and the nation.

Many have called that confrontation at Central High an historic moment, a pivotal moment, a defining moment.

But it was more than just one moment. When these nine men and women walked into Central High School, they opened more than a door, they opened the flood gates. For them and for the rest of our country, the battle didn't end at the schoolhouse steps. Their struggle lasted for years and, in reality, it still continues. My husband and I are both products of an integrated public school system in Arkansas. We are personally grateful to the Little Rock Nine for making our school experience rich with diversity. I truly value the lifelong lessons that I learned at an early age and I might not have had the wonderful privilege of studying with children of all races were it not for the Little Rock Nine. There is still much work to be done to bring complete civil rights and equality to our Nation.

Today, as we pause to remember Daisy Bates and to honor the Little Rock Nine, I hope we will be renewed and refreshed in or efforts. I'm encouraged by the words of Daisy Bates' niece, Sharon Gaston, who said, ''Just don't let her work be in vain. There's plenty of work for us to do.''I hope my colleagues will join me in extending appreciation and commendation to the Little Rock Nine. And in remembering a matriarch of the civil rights movement, Daisy Gaston Bates.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. L. CHAFEE. Mr. President, I ask unanimous consent to speak as in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The distinguished Senator from Rhode Island is recognized for up to 10 minutes.

Mr. L. CHAFEE. I thank the Chair.

(The remarks of Mr. L. CHAFEE and Mr. JEFFORDS pertaining to the introduction of S. 1891 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. JEFFORDS. 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. DOMENICI. 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. DOMENICI. Mr. President, I ask unanimous consent that Senator BINGAMAN and I be permitted to proceed for 10 minutes as in morning business for the purposes of introduction of an important bill.

Mr. REID. Reserving the right to object, I did not hear the request. What was it?

Mr. DOMENICI. Senator BINGAMAN and I want to introduce a bill that is very historic to New Mexico, and we would like to each speak for about 5 minutes on it. We do not ask for any action. It will be referred to its appropriate committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

(The remarks of Mr. DOMENICI and Mr. BINGAMAN pertaining to the introduction of S. 1892 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

BANKRUPTCY REFORM ACT OF 1999—Continued

Mr. SCHUMER addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the pending amendment be laid aside temporarily.

Mr. GRASSLEY. I object.

The PRESIDING OFFICER. Objection is heard.

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.

Mr. AKAKA. 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. AKAKA. I ask unanimous consent to be given 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. AKAKA pertaining to the introduction of S. 1888 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. AKAKA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRAPO). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FEINGOLD. I ask unanimous consent that the order for the quorum call be rescinded.

Mr. GRASSLEY. Mr. President, I object.

The PRESIDING OFFICER. The objection is heard. The clerk will continue the call of the roll.

The legislative clerk continued the call of the roll.

Mr. BOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

REJECTING THE DAKOTA WATER RESOURCES ACT

Mr. BOND. Mr. President, I come to the floor to speak about some important legislative matters and to announce to my colleagues I cannot and will not clear a bill called S. 623, the Dakota Water Resources Act, from the Committee on Energy and Natural Resources. It would authorize a half billion dollars to divert additional water from the Missouri River system for additional uses, including transfer to the Cheyenne and Red River systems. We cannot and will not tolerate the diversion of water. This is strongly opposed by the Governor of my State, by the State of Minnesota, by Taxpayers for Common Sense, and a whole list of environmental groups including the National Wildlife Federation, the Audubon Society, Friends of the Earth and American Rivers. The Canadian Government opposes it, the Governor of Minnesota and the Minnesota DNR oppose it.

I understand why the Dakota Senators want to fight for this. It would be a tremendous boon for their States. But I am not going to be blackmailed because 52 other unrelated bills are being held up over this matter. There are strong substantive objections to this bill. It is not appropriate in this process to try to ram this through, to try to steal water from the Missouri River.

I serve notice on my colleagues, if they have a problem because their bills are being held up in an attempt to blackmail me, it is not going to work. We have worked in good faith with the Senators from North Dakota in the past, helping them with their problems, but I do not intend to be blackmailed into allowing diversion of the Missouri River water.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Oregon?

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for up to 10 minutes as in morning business. If they have a consent agreement worked out, then I will hold off.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, I shan't object.

Mr. GRASSLEY. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LEAHY. I said I shan't object.

Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. WYDEN. Mr. President, I noticed Senator GRASSLEY, who worked very hard on this bill, is trying to get a consent agreement. I will hold off if he is ready to go forward. Otherwise, I will proceed because I have the floor.

Mr. GRASSLEY. Take 5 minutes?

Mr. WYDEN. Mr. President, I gather the consent agreement is not worked out. I did ask consent for the right to speak up to 10 minutes. I gather they can work things out during that period of time.

Mr. GRASSLEY. I ask unanimous consent the Senator from Oregon have 5 minutes.

The PRESIDING OFFICER. Without objection the Senator from Oregon has 5 minutes.

SENIOR PRESCRIPTION INSURANCE COVERAGE EQUITY ACT

Mr. WYDEN. Mr. President, I have been coming to the floor for a number

of days now in an effort to try to get a focus back on this prescription drug issue which seems to involve a lot of finger pointing and a lot of partisan bickering. As part of that effort, I have been urging seniors to send in copies of their prescription drug bills. Just as this poster says, the senior can send in a copy of the prescription drug bill, and write to each of us in the Senate here in Washington, DC.

I have been actually coming to the floor and reading some of these bills for a number of weeks. Just in the last couple of days, I heard from a woman in Portland—she is 84; she has diabetes and a heart condition. She has only Social Security to support herself. She is spending over a third of that Social Security check every month on prescription drugs. She is now at a point where it is hard to pay the taxes on her home.

I heard from another gentleman recently. He has a monthly Social Security check of $633. The cost of his drugs is $644 a month. He is spending more for his prescription drugs each month than he is actually getting in income. So every month this senior is having to choose between food and fuel and fuel and health care. So as a result of this effort to get from seniors copies of their prescription drug bills, we are hearing about the kind of suffering that seniors are enduring around this country.

Senator OLYMPIA SNOWE and I have a bipartisan prescription drug bill. It would cover all senior citizens on an ability-to-pay basis. More than 50 Senators of both political parties are now on record as supporting a funding plan for this legislation. I know other Senators have approaches they would like to try. What is important is that we get a bipartisan focus on this issue. Every public opinion poll shows seniors and families across this country are having difficulty making ends meet when it comes to the high cost of essential health care services.

Our approach is marketplace oriented. There are not price controls. It is not one size fits all. The Snowe-Wyden legislation is called SPICE, the Senior Prescription Insurance Coverage Equity Act. It is designed to deal with the double whammy our seniors are facing on their prescriptions. First, Medicare does not cover the drugs they need and, second, when a senior citizen walks into a drug store, in effect that senior is subsidizing the big buyers, the health maintenance organizations, and other health plans that are able to get discounts.

So seniors have this double whammy now in front of them when it comes to their prescriptions. I hope more will, as these posters indicate, send us copies of their prescription drug bills. I think on the basis of these bills that we are getting from seniors across the country—each of us in the Senate here in Washington, DC—we can bring about bipartisan support to actually respond to the needs of the seniors.

Mr. BYRD. Mr. President, may we have order in the Senate? The Senator is addressing the Senate. May we have order.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Oregon has the floor.

Mr. BYRD. Mr. President, we still do not have order. May we have order in the Senate? You may have to rap that gavel to be heard.

Mr. WYDEN. Thank you, Mr. President. The Senator from West Virginia has been a great ally of the Nation's older people, and I very much appreciate his thoughtfulness. I believe my time is almost up.

I intend to keep coming to the floor of the Senate to read from these bills that we are getting from the Nation's senior citizens. We have 54 Members of the Senate already on record as having voted for a specific plan to fund a prescription drug benefit for older people. We can do this in a bipartisan way. We have the chairman of the Aging Committee, Senator GRASSLEY, who has led our efforts on the committee on so many issues.

I am going to keep coming back to the floor and read from these bills. Again and again, we are hearing from seniors who cannot afford important drugs such as their diabetes medicines.

I will wrap up by saying, when I am asked the question whether our Nation can afford prescription drug coverage, my response is we cannot afford not to cover prescriptions.

A lot of these drugs help seniors stay healthy, keep their blood pressure down, or help to reduce cholesterol. I have cited previously an anticoagulant drug. It costs senior citizens about $1,000 a year. With those kinds of medicines, we can help prevent strokes that involve expenses of more than $100,000.

I am going to keep coming back to this floor to focus on the needs of seniors. We ought to do this in a bipartisan way. That is what is behind the Snowe-Wyden legislation. A lot of our colleagues have other ideas for addressing this issue.

As this poster says, I hope seniors will continue to send copies of their prescription drug bills to us in the Senate, Washington, DC.

I will keep coming to this floor until we can get the bipartisan action we need that provides real relief for the Nation's older people.

I yield the floor.

Mr. REID. 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.

BANKRUPTCY REFORM ACT OF 1999—Continued

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senator from Wisconsin, Mr. FEINGOLD, now be recognized to offer his amendment No. 2748, and he be recognized for up to 12 minutes for general debate on the amendment. I further ask consent that the amendment be laid aside, with a vote occurring on or in relation to the amendment at 5 o'clock, with no second-degree amendment in order prior to the vote. I further ask consent that votes occur on or in relation to the following two amendments in sequence at 5 o'clock, with no second-degree amendments in order prior to the votes, and there be 4 minutes for explanation prior to each vote. Those amendments are No. 2521 offered by Senator DURBIN and No. 2754 offered by Senator DODD. I further ask consent that following the sequencing of the amendments, Senator SCHUMER then be recognized to call up an amendment and to speak for up to 2 minutes and the amendment then be laid aside.

I further ask unanimous consent that the time between now and 5 o'clock be equally divided in the usual form. I further ask consent when the Senate resumes consideration of S. 625 tomorrow, I be recognized to call up our amendment No. 2771 on which there will be a 4-hour time limit.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, Mr. President, if I could ask my friend, the manager of this bill, it is my understanding that the time between now and 5 o'clock would be evenly divided between the majority and minority?

Mr. GRASSLEY. Yes.

Mr. REID. During that period of time, Senators DODD and DURBIN would be able to speak on those two amendments?

Mr. GRASSLEY. That is right.

Mr. REID. Also, during that same period of time, it is my understanding—for example, Senator SCHUMER wanted to offer amendments during that period of time. He would be allowed to do that?

Mr. GRASSLEY. We have it stated here.

Mr. REID. After the votes.

Mr. GRASSLEY. After the votes.

Mr. REID. We want Senator SCHUMER to use some of the time of Senator DODD and Senator DURBIN prior to the 5 o'clock vote.

Mr. GRASSLEY. To answer your question with a further question, this would be to call up, spend a little bit of time explaining them, and lay them aside?

Mr. REID. That is right.

Further, Mr. President, I ask my friend from Iowa, Senator FEINGOLD, I am told, was not expecting a vote tonight.

Is that true?

Mr. FEINGOLD. That is correct.

Mr. REID. He was not expecting a vote on his amendment tonight. So unless there is some reason the majority believes a vote should go forward on that, Senator FEINGOLD would prefer

not to go forward with the vote tonight. So we would still have the two votes on the Durbin and Dodd amendments at 5 o'clock.

Mr. GRASSLEY. We will modify the request accordingly.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Reserving the right to object, just so I understand it correctly, the two amendments that have been debated are the Durbin and Dodd amendments. We have debated those two amendments. This unanimous consent request, Mr. President, if I understand it correctly, would allow us some additional time to debate those two amendments between now and 5 o'clock, but the only amendments to be voted on at 5 o'clock are the Durbin and Dodd amendments?

Mr. GRASSLEY. Yes.

Mr. DODD. However, if other amendments were to be debated or raised for purposes of debate, and then laid aside, the manager of the bill is suggesting that would be allowable in the unanimous consent request?

Mr. GRASSLEY. We are suggesting for the Schumer amendment, according to the agreement, because the other side of the aisle had suggested in the preliminary negotiations that we had on this—negotiations which fell through—that it was very necessary to have a lot of time to devote to debate these amendments on which we had not had votes.

Mr. DODD. Right.

Mr. GRASSLEY. And we had not had debate on them either. So Members on that side of the aisle would be secure that they had an opportunity to thoroughly debate their amendments, that is why we reserved this time.

Mr. DODD. Further reserving the right to object.

Mr. REID. If I could say to my friend from Connecticut, we also have a subsequent unanimous consent request that we expect to propose, once we get this done, which would allow the Senator from Connecticut to offer an amendment that we talked about earlier today.

Mr. SCHUMER. Reserving the right to object, I would like to clarify with either the Senator from Iowa or the ranking minority whip, I would be allowed to offer my amendments in the next hour and a half?

Mr. GRASSLEY. Yes.

Mr. SCHUMER. And would be allowed to debate them, if time permitted, given how much time the Senators from Connecticut and Illinois took on their amendments; is that correct?

Mr. GRASSLEY. It says here you shall have up to 2 minutes on the amendment, then lay it aside.

Mr. REID. I say to my friend from Iowa, that was contemplating his offering them tonight after the 5 o'clock votes. I do not know if we are going to be able to use all of our time, which is approximately 75 minutes, on these two amendments. It would leave Senator SCHUMER time to offer his amendments and talk under the minority's allotted time.

Mr. GRASSLEY. I think it would be fair, for the purpose of our responding to the desires of your side to have time for your folks who are offering the amendments to have adequate time, that we not let the Senator from New York go beyond what we have agreed to, or then I am going to be subject to criticism at 5 o'clock that somebody on your side did not get enough time to offer their amendment.

Mr. DODD. That is good. Let's go.

Mr. SCHUMER. So just clarifying, in other words, if the Senator from Connecticut and if the Senator from Illinois have extra time, we could debate the amendments that I would now offer; is that correct?

Mr. DODD. Fine.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Reserving the right to object, will this mean we will have an opportunity this afternoon for debate by those who would be opposed to those amendments?

Mr. GRASSLEY. Yes. We will have equal time on our side for this Senator to allocate to you.

Mr. SESSIONS. I thank the Senator.

The PRESIDING OFFICER. Is there objection to the request, as modified?

Mr. SCHUMER. Those are the amendments I had asked for, not just one?

Mr. GRASSLEY. Yes. Those are the amendments you spoke to me about this morning, banking amendments?

Mr. SCHUMER. Correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, another request. After the 5 p.m. votes, on behalf of the prime sponsor of the pending second-degree amendment, No. 2518, I ask unanimous consent to withdraw the amendment in order for the Senator from Texas, Mrs. HUTCHISON, to offer a second-degree amendment.

Mr. REID. If I may interrupt my friend from Iowa, we just received a phone call that we are going to have to wait a minute on that. So let's get started on the rest of it.

Mr. GRASSLEY. OK. I will withhold and yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

AMENDMENT NO. 2748

(Purpose: 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, and for other purposes)

Mr. FEINGOLD. Mr. President, in a few minutes I will offer amendment No. 2748. This amendment concerns section 311 of the bill, which provides a complete exemption from the automatic stay for eviction of proceedings.

The PRESIDING OFFICER. The Senator from Wisconsin is advised this requires the Senator to offer his amendment first and then begin debate.

Mr. FEINGOLD. Mr. President, I would be happy to do that.

I ask unanimous consent to set aside the pending amendments so I may call up amendment No. 2748.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. FEINGOLD] proposes an amendment numbered 2748.

Mr. FEINGOLD. I ask unanimous consent further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 108, line 15, strike ''; and'' and insert a semicolon.

Beginning on page 108, strike line 18 and all that follows through page 109, line 7, and insert the following:

''(23) 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, 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 the lessor intends to personally occupy that property, 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.''.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. FEINGOLD. Mr. President, my amendment would limit the reach of section 311 of the bill, which I believe is far too broad. I think it is too harsh a solution for the limited abuse that its sponsors say they are trying to address.

Since the Bankruptcy Code was enacted, the automatic stay that becomes effective upon the filing of a bankruptcy petition has always prohibited a landlord from evicting a tenant unless the landlord obtains permission from the bankruptcy court—what is called ''relief from the stay.'' The stay serves several purposes. In chapter 13, a tenant has a right to assume a lease and to cure a default by paying the accumulated back rent. In chapter 7, the stay was intended to provide the debtor a short ''breathing spell.'' Breathing room is especially helpful to debtors who want to remain in their homes. In many cases, when a chapter 7 debtor is relieved of other debts, he or she can use this brief period to catch up on the rent and avoid eviction.

The right to avoid eviction by filing bankruptcy is obviously of great importance to tenants who at the very point when they have undertaken the difficult and draining bankruptcy experience would otherwise suffer the additional hardships of moving and having to find new housing. And then you have tenants in rent-controlled or rent-stabilized apartments, who lose valuable property rights if they are evicted. Of course, an eviction would normally doom any hope of the tenant completing a chapter 13 repayment plan or getting much benefit from the fresh start bankruptcy is intended to provide.

I understand that the applicability of the automatic stay to eviction proceedings has come under attack because of abuses. This is primarily due to the practice of debtors in a few cities, especially Los Angeles, of filing bankruptcy cases, sometimes repeatedly, solely for the purpose of delaying eviction and, in effect, ''living rent free.'' these debtors are often aided by nonattorney bankruptcy petition preparers and file pro se. I have seen the advertisements by some of these unscrupulous individuals, and I deplore this kind of abuse as much as anyone does.

But to address this limited problem of abuse, what S. 625 does is totally eliminate the automatic stay for tenants.

In fact, the bill contains an even more sweeping provision than the language adopted in the conference report last year and contained in the House bill this year.

The problem of abusive bankruptcy filings by tenants in a few jurisdictions can be addressed by more limited, carefully targeted provisions. First, we can cut a whole area of abuse by simply lifting the stay in cases where there are repeat bankruptcy filings. My amendment includes that. These abuses inspired this amendment and they also point to its underlying goal: to eliminate the possibility that debtors can use the bankruptcy law to live ''recent free'' after they file. I agree that we should not let tenants take advantage of the bankruptcy laws to live ''rent free.'' But if a debtor is able to put together enough money to pay rent during the pendency of the bankruptcy, that goal is satisfied. Certainly, the landlord is not losing anything financially by allowing the tenant to stay.

If the landlord again begins collecting rent on the apartment after a bankruptcy filing, it is in the same position as it would be if it evicted the debtor and began collecting rent from a new tenant. So under my amendment, relief from the automatic stay is only available if the debtor fails to pay rent that comes due after the bankruptcy filing.

I also believe that it is important to keep the bankruptcy court involved and aware of the lifting of the stay as it is under current law when a landlord applies for relief from the stay. There does seems to be good reason, however, to provide expedited relief from the stay if the debtor does not pay rent while the proceeding is pending.

So my amendment creates a simple and straightforward process. Once a debtor misses a rent payment after filing for bankruptcy, the landlord can immediately file a certification with the court that the payment has not been received. It must also serve a copy of the certification on the debtor, to make sure that the debtor is aware that the landlord intends to seek to have the stay lifted. After that certification is filed and served, the debtor has 15 days to cure the default. The exemption from the stay will become effective 15 days after the certification is filed and served, unless the court orders otherwise. And one reason for the court to order otherwise is that the rent has been paid.

This certification and expedited exemption process also applies to evictions based on property damage or illegal drug use. By giving discretion to the court to delay or stop the eviction proceeding from going forward, the amendment protects against these provisions being abused by landlords. We don't want landlords alleging property damage for the most minor scratches on the wall in order to take advantage of these expedited procedures.

The expedited procedures also apply to one other situation, which the Senator from Alabama raised during our consideration of this amendment in the Judiciary Committee. The Senator from Alabama sketched out a hypothetical situation where a landlord who has rented his or her own house or apartment to someone wants to move back in after the expiration of the lease. Under the amendment that I offered in committee, the landlord could theoretically be prevented from moving back in to his or her own house if the tenant files for bankruptcy and keeps paying rent.

I think the Senator from Alabama raised a good point in committee, so I have addressed it in this amendment. Again, the underlying goal is to allow tenants the benefits of the automatic stay as long as landlords are no worse off. In the usual case of a landlord who would simply rent to someone else after an eviction, renewed and continuous payment of rent after the bankruptcy filing protects the financial interests of the landlord. But in the case sketched out by the Senator from Alabama, landlords have other rights, namely the right to reoccupy their own homes, that we need to protect as well.

So my amendment contains an additional circumstance in which a landlord can seek expedited relief from the stay—when the lease has expired according to its terms and the landlord intends to occupy the property after the eviction. Once again, the landlord must simply certify that these circumstances exist and 15 days later, the stay is lifted, unless the tenant demonstrates to the court that the certification is erroneous.

It should be remembered that this amendment does not effect the landlord's ability to seek relief from the stay under the procedures provided by current law. Expedited procedures are available for nonpayment of rent after filing for bankruptcy, for evictions based on property damage or drug use, or when a lease has expired and the landlord wishes to reoccupy the property. For all other types of evictions, the landlord may continue to pursue remedies under current law.

As in so many parts of our debate on this bill, the main issue is balance. To the extent there are abuses they should be addressed, but the solutions should be narrowly targeted so that they do not eliminate the rights of honest debtors who need the fresh start that bankruptcy is designed to provide. In this case, I truly believe that the solution is S. 625 for the problem that landlords say they are concerned about goes too far. I am not comfortable with provisions that would kick people out of their apartments even if they can pay rent during the time that they are trying to get their financial house in order. To me that is not constructive, it is punitive. It is not really helping landlords, it is just punishing people who may be trying their very best to keep their heads above water. Shame on us, if we can't see that.

I hope my colleagues will support this modest and balanced amendment.

Mr. President, I ask unanimous consent that amendment No. 2748 be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, in response to the remarks of the Senator from Wisconsin, I will not be able to support this amendment, although I do believe he has put some parts in it that

make it superior to what had originally been offered in this regard.

I will share with Members some of the reasons I believe we need to reject this amendment and why this is a classic problem with the current bankruptcy law that we need to fix. We haven't had a major reform of bankruptcy law since 1978. It is time for us to look at it to see how it is working out in the real world. Are there abusers? Are there loopholes, with clever lawyers zealously representing their clients able to utilize some of these loopholes and situations to abuse the fair workings of the bankruptcy court?

Remember, a bankruptcy reform bill sets the law for an entire court. That is the court that handles bankruptcy.

Senator GRASSLEY's bill, with this amendment involving landlord/tenant that I helped sponsor, simply clarifies existing law. It simply makes real and more effectual the existing law. The amendment offered by Mr. FEINGOLD changes the current law; it moves us in a direction that will enhance and encourage litigation and delay and undermine the rule of law as we ought to see it in the country. There are some good lawyers out there practicing bankruptcy law. That is all they do. They know how to work the system and work it well.

Under current law, if a landlord files an eviction against a tenant before the bankruptcy petition is filed by the tenant, that eviction can continue. If an eviction is filed by a landlord based on the fact that his lease has terminated—he has a 1-year lease; we are now in month 14, he files to evict the tenant; he can't just go and throw him out physically—he files a lawsuit in State court to evict the tenant, he will prevail in bankruptcy court. That is not the kind of action the bankruptcy court will permanently stay.

What is the problem? Why are we having a problem? The problem is that when a person files for bankruptcy, all litigation is stayed; there is an automatic stay. So if you file for bankruptcy in Federal court, any lawsuits filed against you in the State court system for collection of your debts, including landlord/tenant, are automatically stayed. So what happens is, the landlord has to hire an attorney, send him down to Federal bankruptcy court, at great expense to himself, to file a motion and ask for a hearing to lift the stay and to say to that bankruptcy judge: Judge, we don't need you to stay this eviction case because the person is clearly in violation of his lease; he hasn't paid his rent, and/or the lease is terminated. It is time for him to be removed from his premises. He has to argue that.

Uniformly, the courts will rule in his favor, and he can then take the matter to State court. In State court, the tenant has all the rights and privileges he has always had to defend himself against eviction. He gets a hearing in court. He just doesn't get a double hearing in Federal court and State court.

This is a great cost to the landlords who have to go through this process. It also deals with landlords who have just a few apartment complexes or maybe just one and maybe the lease is coming up and they don't want to just occupy the premises themselves. Maybe they have already executed a lease with another tenant to take over this apartment. All of a sudden they find the tenant won't leave under his lease. Then he files a petition in bankruptcy. The court stays the efforts to evict and months go by. That is the kind of problem we are having.

How does this abuse occur? We have seen advertisements and pulled them from phone books and newspapers. Here is one: ''Seven months free rent.'' It goes on to talk about how you can file bankruptcy—it has 7 calendar months here—and not be evicted for up to 7 months, even though your lease may have already expired. You have a 12-month lease, and that means you can stay there 19 months by the time you can get around to getting somebody removed from the premises, when you may have already agreed with your son, daughter, or some other possible tenant, that they can take over the property at a given time.

The Feingold amendment, as I understand it, would protect the landlord who wanted to move in himself but not from leasing it to somebody else or letting a family member take over the property.

Here is another one to a tenant organization, a flier that was passed out: ''We have more moves, when it comes to preventing your eviction, than Magic Johnson. Call us,'' the law firm says, ''and we will take care of you.'' ''Need more time to move? Stop this eviction from 1 to 6 months.''

And there are others we have seen here, quite a number of those kinds of activities. So I say to you that this is not just an imagined problem; it is very real. And still attorneys are advertising around the country, and they are disrupting legitimate landlord-tenant situations. It is an abuse.

Eventually, under the current law, when they go to bankruptcy court and ask that the stay be lifted so they can continue with their eviction, they always win—but they always lose. They win on the law eventually, but they lose because they have been delayed in taking control of their own property and because they have had to pay an extensive legal fee. This is the kind of thing that is driving people mad who are dealing with bankruptcy on a regular basis. They are coming to us in Congress and saying: JEFF, these things are not healthy; they are frustrating, and they are hurting our ability to commercially operate in an effective way.

So how often does it happen? I would like to read a report from the Los Angeles County Sheriff's Office—just in one county in America. This is what the L.A. County Sheriff's Office said. They estimate that 3,886 residents—3,886—filed for bankruptcy in 1996 alone—in 1 year, in that county—to prevent the execution of a valid court-ordered eviction notice. Think about that. You can even have won your eviction case in court, and an order has been issued to have this person evicted, his or her lease is up, and this stay in bankruptcy stops that.

It goes on to say that 7 percent of the eviction cases handled by the Los Angeles County sheriff's department are stayed as a result of bankruptcy filings. Losses are estimated at nearly $6 million per year. They advertise in many of the publications ''Live Rent Free.'' That is really what has been happening. ''More moves than Magic Johnson'' to prevent a legitimate execution of an eviction order.

Remember, we are not saying a landlord can just go remove somebody. Every State has protection for renters. They have to go to court and get a valid eviction order. Many times, they are entitled to other delays before they can be evicted. So I think that is significant.

Another matter that I think is important is the quote from a judge in the Central District of California who is concerned about these cases. He sees them very frequently. Judge Zurzolo in the Central District of California had this to say about bankruptcy and efforts to delay eviction. This is a quote from his opinion in court:

> The bankruptcy courts are flooded with chapter 7 and chapter 13 bankruptcy cases filed solely for the purpose of delaying unlawful detainer eviction. Inevitably and swiftly following the filing of these bankruptcy cases is the filing of motions for relief of stay by the landlords. They have hired a lawyer and they have to file a motion for relief of stay. These landlords are temporarily thwarted by this abuse of the bankruptcy court system.

This judge calls it an abuse of the system. These relief from stay motions are rarely contested and never lost. That is, the lawyer who filed the bankruptcy rarely even contests them, and never are they ruled against the landlord. It is never ruled against the landlord, but they are filed and delay has already occurred. He says this:

> Bankruptcy courts in our district hear dozens of these stay motions weekly, none of which involve any justiciable conflicts of fact and law.

So it is pretty clear. We have a national problem that ought to be fixed. We can fix it.

What does the current legislation, the bankruptcy reform bill, say about it? It simply says that the automatic stay is not available when an eviction proceeding has already started prior to the filing of a bankruptcy. In other words, if the eviction has started before, you don't get that stay. If an eviction proceeding is based on the fact that the lease is already terminated, you don't get a stay. Otherwise, you would have the same stay. This will stop a lot of wasted effort, a lot of unnecessary costs, a lot of frustration for tenants and those kinds of problems.

I believe this law is good public policy—the way it is written in the Grassley bankruptcy bill—because a bankruptcy court only has control over the assets of the person filing bankruptcy. A lease that has already expired, by its very definition, is not an asset. A lease that has clearly been terminated because of nonpayment of rent is not an asset of the person who is filing bankruptcy. Therefore, the bankruptcy court does not have legal power to control an asset that is not theirs; it is the landlord's. So that is why the courts always rule in favor of the landlord in these cases. The landlord may have another tenant who would want to take over, and that tenant's life may be disrupted if the landlord can't deliver the premises.

In conclusion, the changes suggested in the Feingold amendment alter current law substantially. They allow the tenant to stay in the premises on which the lease has expired and for which they have been in default for lack of payment, or other reasons. This is unacceptable, and it is not sound law. You ought not to have a law that says you can stay in the premises when the lease has expired, for Heaven's sake. This would be the Federal bankruptcy court overruling State law that says when your lease expires, you are out. If we can't have honesty in the effectuation of contracts in America, we are in sad shape. I believe this is a poor amendment and it should not be approved.

I yield the floor.

Mr. GRASSLEY. Mr. President, how much time do we have on our side?

The PRESIDING OFFICER. The Senator has 23 minutes.

Mr. GRASSLEY. Mr. President, I yield 20 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator is recognized.

NOMINATION OF CAROL MOSELEY-BRAUN

Mr. HELMS. Mr. President, 4 days ago, on November 5, the Senate Foreign Relations East Asian and Pacific Affairs Subcommittee conducted its hearing on the Moseley-Braun nomination. Since it was a subcommittee meeting and a hearing, I viewed it on television. I have a long practice of giving chairmen and ranking members of our subcommittees free rein in conducting their respective hearings. So I viewed the hearing on television, as I say, and it was a sight to behold.

In fact, what it was was a political rally, lacking only a band and the distribution of free hot dogs, soda pop, and balloons. Last night, the full committee met briefly, almost informally, just outside the Chamber here, and reported the nomination to the Senate, with one dissent. I will let you guess whose dissent that was.

Before I proceed further, I express the sincere hope that the nominee, when confirmed to serve as U.S. Ambassador to New Zealand, will serve diligently, effectively, and honestly. She will be representing the United States, the country of all Americans. For the sake of our country, I pray there will be no further reports of irregularity involving her conduct. In short, I wish her well.

Before the book is closed on the scores of reports regarding the nominee's often puzzling service as a U.S. Senator, I decided a few footnotes were in order. Many citizens from many States all over this country—principally, however, from the Chicago area—have contacted me during the past few weeks. There have been expressions of puzzlement that the President of the United States decided to reverse the clearly expressed judgment of the people of Illinois in the 1998 election. Several speculated over the weekend that the Senate was about to rubber stamp the President's nomination to serve as U.S. Ambassador to New Zealand. After all, the Illinois voters have made the judgment that serious charges of ethical misconduct by Senator Moseley-Braun disqualified her from further representing them in the Senate. Now they say the same Senate is preparing to declare she is qualified to represent all Americans abroad.

I think it important, therefore, that the people of Illinois —indeed, all Americans—be assured before the Senate proceeds that what they are witnessing is by no means an absolution of Ms. Moseley-Braun. What the American people are witnessing is a successful coverup of serious ethical wrongdoing. I am not going to dwell this afternoon on each of the many serious charges that have been raised, such as the continuing mystery of who really paid for her numerous visits to Nigerian dictator Sani Abacha or where Ms. Moseley-Braun's fiance, Kosie Matthews, got the $47,000 downpayment on the Chicago condo. For the record, Mr. Matthews was also her campaign manager and is now conveniently a missing man. Nobody knows where he is.

Whatever happened to the $249,000 the Federal Election Commission cannot account for her in her campaign? Or who was it exactly who paid for several thousand dollars in airfare, luxury hotel bills, and jewelry purchases during her 1992 trip to Las Vegas or the $10,000 in jewelry she purchased on her 1992 trip to Aspen, CO?

In most cases, the Foreign Relations Committee and its legal officer were unable to get to the bottom of these and other matters because Ms. Moseley-Braun has been hiding behind Mr. Matthews. Mr. Matthews, a South African native, has skipped the country and is nowhere to be found.

My purpose today is not to go through the laundry list of Ms. Moseley-Braun's well-known ethical lapses but, rather, to focus on the Clinton administration's culpability in all of this affair. Ms. Moseley-Braun was suspected of serious tax crime by the Internal Revenue Service following her 1992 campaign. According to a report in the New Republic magazine, she had:

> . . . a $6 million-plus war chest for her general election campaign, only $1 million of which was spent on TV advertising. Moreover, her campaign wound up $544,000 in debt.

Where did this money go? The IRS wanted to find out, but the IRS' efforts to investigate allegations that Moseley-Braun had diverted an estimated $280,000 of those campaign funds for personal use and failed to report it as personal income, those allegations were blocked every step of the way by the Clinton Justice Department.

In 1995, the Clinton Justice Department twice refused routine requests by the IRS Criminal Tax Division to convene a grand jury to investigate the charges against Ms. Moseley-Braun. The IRS had credible evidence that, among other things, she had spent some $70,000 in campaign funds on designer clothes, $25,000 on two jeeps, $18,000 on jewelry, $12,000 on stereo equipment, and some $64,000 on luxury vacations in Europe, Hawaii, and Africa.

Without a grand jury, Government investigators were denied the subpoena power to get at the key documents they had to have to prove their case. The Clinton Justice Department refused repeated requests to convene a grand jury.

Refusing such a request is highly unusual, according to numerous former IRS and Justice Department officials who made clear that the Justice Department's routine in such matters was to impanel grand juries so the IRS could continue gathering evidence. One former official with the Criminal Tax Division of the Justice Department, a Mr. John Bray, called it virtually unheard of to deny such a request. A former head of the Criminal Tax Division, Cono Namorato, commented:

> They [that is to say, the IRS] don't need to show much. . . . By and large, if it is requested, it is approved.

Another described the relationship between the Justice Department and the IRS this way:

> The Justice Department basically sees the IRS as their client, and as their attorney they should do as requested.

But in Moseley-Braun's case, this routine request from the client was denied, not once but twice.

Then the Foreign Relations Committee requested all of the documents from both IRS and the Department of Justice on this matter. Contrary to declarations by Ms. Moseley-Braun, the documents do not absolve her of wrongdoing. What the documents prove is that these serious allegations of ethical misconduct were never properly examined because the investigation was blocked by political appointees at the Justice Department, no doubt on instructions from the White House. Interestingly enough, the official at the Justice Department who made the decision, Loretta Argrett, was a Moseley-Braun supporter who had made a modest contribution to the Moseley-Braun

1992 campaign and who had a picture of Ms. Moseley-Braun on her office wall. Senator Moseley-Braun even presided over Ms. Argrett's confirmation in 1993.

It is noteworthy that the White House had to spend more than a week digging around in the bowels of the Justice Department to find the documents requested by the Senate Foreign Relations Committee. That is compelling evidence in and of itself because it demonstrates that the administration failed to properly examine the charges against this nominee when the charges were presented by the IRS in 1995. Again, the administration demonstrably failed even to review the charges in 1999 before sending her nomination up to the Senate.

It occurs to me that perhaps that was not unintentional. Perhaps the folks in the administration knew exactly what they were doing. Perhaps they hoped the spectacle of a public dispute between JESSE HELMS and Carol Moseley-Braun would serve the base political interests of the Clinton administration.

Well, Mr. President, I am not going to give them the spectacle they have been hoping to provoke. It may be that history, in a strange way, is now repeating itself. It is of interest to me that back in 1943, the then United States Senator Josiah William Bailey of North Carolina strongly opposed a proposal that President Franklin Delano Roosevelt nominate FDR's press secretary, a former Raleigh newspaper editor named Jonathan Daniels, as nominee to go—where? To New Zealand as United States Ambassador. Jonathan Daniels was a son of Josephus Daniels who had founded the Raleigh News and Observer many years earlier. Josephus once served as Secretary of the Navy and had chosen Franklin D. Roosevelt to be his assistant. Later on Josephus Daniels served as Ambassador to Mexico, nominated by President Roosevelt.

Jonathan Daniels repeatedly pleaded with FDR to nominate him to be Ambassador to ''somewhere'' so that he could emulate his father Josephus, but FDR told Jonathan Daniels that he would nominate him to be an Ambassador only if Jonathan persuaded Senator Bailey to approve the nomination. The fly in the ointment was that Jonathan Daniels, prior to going to Washington as press aide to FDR, had written a series of abusive, mean editorials about Senator Bailey. Anyhow, Jonathan decided that he had nothing to lose by going to Senator Bailey's office to plead his case. Senator Bailey flatly rejected the idea of Jonathan Daniels' going anywhere as Ambassador—and flat-out told Jonathan so. To which Jonathan Daniels played his last card, pleading:

Well, Senator, I would have thought that you wouldn't mind my being sent to New Zealand—it's on the other side of the world, you know.

To which U.S. Senator Josiah William Bailey slowly shook his head and said:

Yes, and it ain't fur enough.

Mr. President, you are free to draw your own conclusion. I thank you, and I yield the floor.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Illinois.

Mr. DURBIN. Mr. President, I come to the floor to offer an amendment on the bankruptcy bill, but in light of the statement that was just entered into the record by Senator HELMS, in reference to my former colleague, Senator Carol Moseley-Braun, I am constrained to respond.

Let me say at the outset, I fully support President Clinton's decision to nominate Senator Carol Moseley-Braun to continue to serve this Nation as our Ambassador to New Zealand and Samoa. I was happy to appear before the Senate Foreign Affairs Committee last Friday and to introduce her. I believe she received a fair hearing that day, and those of us who were there came away with the impression that, when her name is called to be appointed Ambassador, she will receive a strong bipartisan vote of the Senate. But I have to say some of the suggestions that have been made in the previous statement at least need to be cleared up for the record.

Running for the Senate subjects you to all sorts of inquiry and investigation, not only by your opponent, who will look at you in the harshest terms, but by the press and any other inquiring mind. Those of us who subject ourselves to that process understand it is going to be tough. Senator Carol Moseley-Braun has done that repeatedly throughout her career, running for offices at the legislative level, the county level, and twice as a statewide candidate in Illinois. Not surprisingly during that period of time there have been many charges that have been thrown at her. Many of those charges were just repeated today on the floor of the Senate. I might remind my colleagues in the Senate, they are just that. They are charges; they are not proven.

I might also say to my colleagues in the Senate, those who view this body as somehow a closed club that takes care of its own ought to take a look at what happened with this nomination, because what Senator Carol Moseley-Braun was subjected to during the course of this process is a standard which, frankly, may exceed a standard imposed on any other person who comes up for an ambassadorship to a post such as New Zealand. In other words, she was subjected to more rigorous examination and questioning than virtually any person off the street nominated by the President.

It may surprise some people to think a former United States Senator would go through that process, but I am happy to report, as the Senate Foreign Affairs Committee learned last Friday, after Senator Carol Moseley-Braun went through an extensive background check at the request of the White House, after her campaign records were reviewed in detail, after all the charges put in the RECORD on this floor were investigated, after the Internal Revenue Service and Department of Justice and FBI were called in and asked point blank if she was guilty of wrongdoing, they all concluded there was no proof of wrongdoing, and they recommended her name to the President, who then submitted it to the Senate.

Now we are in a position where many of those same charges, with no basis in fact, have been repeated again on the Senate floor. That is truly unfortunate. Let me address two of them. No. 1, as a Senator serving in this body, she visited Nigeria and a leader there of whom the United States did not approve.

I will have to tell you I did not approve of that leader either, but no one has ever questioned the right of any Senator or any Member of the House to decide to take foreign travel and visit a foreign leader without the approval of the State Department. I think, frankly, that is all well and good. When the chairman of the Foreign Affairs Committee, Senator HELMS, chose to visit General Pinochet in Chile, that was his right. Many people in the United States might question it, but I do not question his decision to do that. That is something for him to defend to the voters of North Carolina.

When my Governor in the State of Illinois decided 2 weeks ago to visit with the dictator leader in Cuba, Fidel Castro, again it was his right. In fact, I supported his visit. I thought it was important.

So to bring up this red herring of a visit to Nigeria while she served in the Senate is to hold Carol Moseley-Braun to a different standard than we hold our own colleagues and other leaders across the Nation. I don't think that is fair.

Second, on the talk about campaign finances and whether she misspent them, the record of the committee tells the story. When an auditor came from the FEC and looked at detailed records from the Carol Moseley-Braun campaign in 1992 and went through the $8 million in expenditures in that campaign, they were able to identify $311 unaccounted for.

Mr. President, I make a great effort to try to have a full accounting, as required by law. I am sure every Senator does. But $311 out of $8 million? To make of that some sort of a disgrace or scandal is to exaggerate it beyond recognition. Those are the charges flung again at Senator Carol Moseley-Braun on the Senate floor.

That is a sad occurrence and one which I wish had not occurred. Frankly, I hope the Members of the Senate, before we adjourn today, have a chance to vote on giving our colleague a chance to serve because we are not only sending an able representative to represent the United States with one of our great allies, New Zealand, we are sending to New Zealand evidence the American dream is still alive because

Carol Moseley-Braun—and I will readily concede she is not only my former colleague but my friend—and her public life are a testament to what America stands for. Born in a segregated hospital facility in Chicago, her mother, a medical technician in the same place, her father a Chicago policeman, she worked her way through college to not only earn a degree but earn a law degree from the University of Chicago, to serve for 5 years as an assistant U.S. attorney and prosecutor, to become the first African American woman to ever serve as a member of the leadership in the Illinois General Assembly, to become the first African American woman ever elected countywide in Cook County, and the first African American woman in this century to be elected to the Senate.

Time and time again, every step of her life has crushed down another barrier so that those who follow her will have a better opportunity.

Now she joins some four other African American women who serve as our Ambassadors should the Senate decide to give her that chance. As she journeys to New Zealand—and I hope she will soon—she will bring with her not only a wealth of public service but a story about how the American dream can be realized if you believe in yourself and if you believe that equality is more than just a word—it is a principle which guides this great country.

I stand in strong support of Carol Moseley-Braun. I believe she will be an excellent Ambassador, and I believe the vote that comes out of this Chamber will be strong and bipartisan and put to rest, once and for all, many of the charges and rumors which have been swirling around her nomination over the past several weeks.

Mr. President, I yield the floor to my colleague, the Senator from New York.

Mr. SCHUMER. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from New York.

BANKRUPTCY REFORM ACT—Continued

AMENDMENT NO. 2761

(Purpose: To improve disclosure of the annual percentage rate for purchases applicable to credit card accounts)

Mr. SCHUMER. Mr. President, as per the agreement, I call up amendment No. 2761, to be debated for 15 minutes and then laid aside.

I ask unanimous consent that Mr. SANTORUM be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the amendment.

The legislative assistant read as follows:

The Senator from New York [Mr. SCHUMER], for himself and Mr. SANTORUM, proposes an amendment numbered 2761.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the 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 new section:

SEC. . TRUTH IN LENDING DISCLOSURES.

Section 122(c) of the Truth in Lending Act (15 U.S.C. 1632(c)) is amended—

(1) in paragraph (1), by striking the current text and inserting the following:

''(1) IN GENERAL.—The information described in paragraphs (1), (3)(B)(i)(I), (4)(A), and (4)(C)(i)(I) of section 1637(c) of this title and the long-term annual percentage rate for purchases shall—

''(A) subject to paragraphs (2) and (3) of this subsection, be disclosed in the form and manner which the Board shall prescribe by regulations; and

''(B) be placed in a conspicuous and prominent location on or with any written application, solicitation, or other document or paper with respect to which such disclosure is required.''

For purposes of this subsection, the term ''long-term annual percentage rate for purchases'' means the highest nondefault annual percentage rate for purchases applicable to the credit card account offered, solicited or advertised, calculated at the time of mailing (in the case of an application or solicitation described in paragraph (1) of section 1637(c) of this title) or printing (in the case of an application or solicitation described in paragraphs (3)(B) of section 1637(c) of this title), except that in the case of a credit card account to which an introductory or temporary discounted rate applies, the term ''long-term annual percentage rate for purchases'' means the highest nondefault annual percentage rate for purchases applicable to the credit card account offered, solicited or advertised that will apply after the expiration of the introductory or temporary discounted rate, calculated at the time of mailing (in the case of an application or solicitation described in paragraph (1) of section 1637(c) of this title) or printing (in the case of an application or solicitation described in paragraphs (3)(B) of section 1637(c) of this title.''

(2) in paragraph (2), by striking the current text and inserting the following:

''(2) TABULAR FORMATS FOR CREDIT CARD DISCLOSURES.—

''(A) The long-term annual percentage rate for purchases shall be disclosed on or with a written application or solicitation described in paragraphs (1) or (3)(B) of section 1637(c) of this title in 24-point or larger type and in the form of a table which—

''(i) shall contain a clear and concise heading set forth in the same type size as the long-term annual percentage rate for purchases;

''(ii) shall state the long-term annual percentage rate for purchases clearly and concisely;

'(iii) where the long-term annual percentage rate for purchases is based on a variable rate, shall use the term 'currently' to describe the long-term annual percentage rate for purchases;

''(iv) where the long-term annual percentage rate for purchases is not the only annual percentage rate applicable to the credit card account offered, solicited or advertised, shall include an asterisk placed immediately following the long-term annual percentage rate for purchases; and

''Iv) shall contain no other item of information.

''(B) The information described in paragraphs (1)(A)(ii), 1(A)(iii), (1)(A)(iv), 1(B) and (3)(B)(i)(I) of section 1637(c) of this title shall be disclosed on or with a written application or solicitation described in paragraph (1) of section 1637(c) of this title or a written application or solicitation as large as or larger than 8.5 inches in width and 11 inches in length described in paragraph (3)(B) of section 1637(c) of this title in 12-point type and in the form of a table which—

''(i) shall appear separately from and immediately beneath the table described in subparagraph (A) of this paragraph;

''(ii) shall contain clear and concise headings set forth in 12-point type;

''(iii) shall provide a clear and concise form for stating each item of information required to be disclosed under each such heading; and

''(iv) may list the items required to be included in this table in a different order than the order set forth in paragraph (1) of section 1637 of this title, subject to the approval of the Board.''

''(C) The information described in paragraphs (1)(A)(ii), (1)(A)(iii), (1)(A)(iv), (1)(B) and (3)(B)(i)(I) of section 1637(c) of this title shall be disclosed on or with a written application or solicitation smaller than 8.5 inches in width and 11 inches in length described in paragraph (3)(B) of section 1637(c) of this title in 12-point type and shall—

''(i) be set forth separately from and immediately beneath the table described in subparagraph (A) of this paragraph; and

''(ii) not be disclosed in the form of a table.

''(D) Notwithstanding the inclusion of any of the information described in paragraph (1)(A)(i) of section 1637(c) of this title in the table described in subparagraph (A) of this paragraph, the information described in paragraph (1)(A)(i) of section 1637(c) of this title shall be disclosed on or with a written application or solicitation described in paragraphs (1) or (3)(B) of section 1637(c) of this title and shall—

''(i) be set forth in 12-point boldface type;

''(ii) be set forth separately from and immediately beneath the table described in subparagraph (B) of this paragraph or the information described in subparagraph (C) of this paragraph, whichever is applicable;

''(iii) not be disclosed in the form of a table; and

''(iv) where the long-term annual percentage rate for purchases is not the only annual percentage rate applicable to the credit card account offered, solicited or advertised, be preceded by an asterisk set forth in 12-point boldface type.''

(3) by adding at the end the following:

''(3) TABULAR FORMAT FOR CHARGE CARD DISCLOSURES.—

''(A) In the regulations prescribed under paragraph (1)(A) of this subsection, the Board shall require that the disclosure of the information described in paragraphs (4)(A) and (4)(C)(i)(I) of section 1637(c) of this title shall, to the extent the Board determines to be practicable and appropriate, be in the form of a table which—

''(i) contains clear and concise headings for each item of such information; and

''(ii) provides a clear and concise form for stating each item of information required to be disclosed under each such heading.''

''(B) In prescribing the form of the table under subparagraph (A) of this paragraph, the Board may—

''(i) list the items required to be included in the table in a different order than the order set forth in paragraph (4)(A) of section 1637(c) of this title; and

''(ii) employ terminology which is different than the terminology which is employed in section 1637(c) of this title if such terminology conveys substantially the same meaning.''

Mr. GRASSLEY. Mr. President, will the Senator yield for a question?

Mr. SCHUMER. I yield for a question.

Mr. GRASSLEY. The Senator's 15 minutes are coming within the framework of our voting at 5 o'clock.

Mr. SCHUMER. That is correct.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank the Senator from Iowa and the Senator from Illinois for their courtesy and the Senator from Nevada for his diligent work in seeing we all get some time.

I am offering an amendment, along with the Senator from Pennsylvania, Mr. SANTORUM, to do something very basic to the bankruptcy bill, and that is to make credit card disclosure easier to find, easier to read, and easier to understand. I offer this amendment to achieve a goal I share with the sponsors of this bill—seeing fewer American consumers declare bankruptcy.

I believe, however, that real bankruptcy reform must address one of the root causes of consumer indebtedness, and that is, abusive consumer credit industry practices. Having saturated the middle market, credit card companies, of course, search ever harder for new users. Their search for new customers leads inevitably to those who have the least ability to repay and are most likely to wind up mired in debt.

The Federal Reserve reports that credit card solicitations skyrocketed to a shocking $3.5 billion in 1998, a 15-percent increase from the previous year. That represents an average of 13 solicitations per year—more than one a month for every man, woman, and child in the United States. That is 12 a year for every man, woman, and child in the United States.

To reach these new customers, the credit card companies are in a race to the bottom oftentimes to come up with misleading marketing gimmicks and hidden fees.

The whole purpose of this bill is to say that those who get deeply into debt should have to repay their debts, even if they are poor. I understand that. I do not agree with certain provisions of it, but I understand it. We can all agree that we ought to have full and broad disclosure before someone signs up for a credit card so they do not get mired in that debt. That is not a Democratic or Republican principle, it is an Adam Smith free market principle: full information.

I am hopeful this bipartisan Schumer-Santorum amendment will meet the approval of this body and improve the bill.

Let me show my colleagues what is happening. Credit card accounts have become more complicated than ever. Look at this credit card solicitation. It is blown up significantly from its actual size. Count the number of rates applicable to the account. There is a teaser rate, 3.9 percent on introductory purchases and balance transfers. That is the only thing that jumps out at you. An unknowing consumer, someone not really trained in legalese, would think that is the annual rate, but it is not. Here are the other rates mired in this very complicated language: a 9.9 percent long-term rate on purchases and balance transfers; 19.99 percent on cash advances; 9.99 penalty rate, 19 and 22 percent penalty rates on balances in the long run.

My colleagues, that is not disclosure; that is an advance math problem on a college entrance exam. I have had a deep and abiding interest in credit card disclosure.

In 1988, as a House Member, I authored the Fair Credit and Charge Card Disclosure Act. The act required that certain information about a credit card account be disclosed: the annual percentage rate, the annual fee, the minimum finance charge, the method of computing the balance for purchases.

The act required that this amendment be disclosed in a table, the so-called Schumer box. By putting the information in the table and mandating the table be prominently disclosed, the hope was consumers would be able to understand what the costs of credit truly were. But instead of clarity, they got obfuscation. Because of how the Federal Reserve has interpreted the table, disclosure provisions to the Fair Credit and Charge Card Disclosure Act, the result has not been disclosure, but a hide-the-rate shell game.

Again look at this chart. The only number that stands out is 3.9 percent, and on the solicitation in big white letters on the front is 3.9 percent. If you were looking at this, you would think you are getting a 3.9-percent credit card; 3.9 is the only number in big letters. If you read all the little fine print on the inside, you will see the rate is 10 percent, 19 percent, even 22 percent.

We must correct this. We have seen the disclosure box can be stashed away in places far from prominent—the back page or accompanying scrap of paper. We see the disclosure box can appear in font sizes so small it is virtually unreadable. The disclosure box that appears on these is blown up significantly. In the actual solicitation, the letters are so small that even with my 48-year-old eyes, and getting older every minute, I cannot read them.

Finally, we have seen the box disclosure rate of information has turned out to be a mess. The so-called Schumer box, of which I was proud when it first passed, has not helped the consumer as much as intended. The amendment that Senator SANTORUM and I are offering will restructure the existing disclosure box in the following way:

First, it will create a large, readable, 24-point font table solely for the long-term annual percentage rate for purchases. This is the old card, where all you see is the introductory rate in big letters. This is the new rate, and it is easily seen, 9.99 percent, which would be the annual rate. If there is a teaser rate, a so-called introductory offer rate that is very low, that could be on the credit card, but you do not need a college education or calculus to see the annual rate. It is very important.

Second, beneath the table disclosing the long-term annual percentage rate for purchases, it would mandate another table in standard 12-point font that discloses such items as the grace period for repayment, annual fees, minimum finance charges, transaction fees, and other items that are not required to appear in any disclosure box under current law—cash advance fees, late fees, and over-the-credit limit fees.

Finally, beneath this second table there would be full disclosure on all rates applicable to the credit card account. The poster shows the difference. This one looks as if you have a 3.9-percent rate; this one, the annual rate. Again, we are not limiting the consumer. We are simply providing information. This is good old Adam Smith American competition, and companies will compete for people based on who has the best rates.

It is fair to say consumers will be better off under my amendment, in terms of understanding the true costs of credit.

Senator SANTORUM and I believe that disclosure is the way to go, not putting a cap on, not putting limits on, but simply disclosure—but real disclosure—so that people could understand this.

It will fit on an 8½ by 11 sheet. We do not want the credit card companies to be able to say that it is difficult to put this together. All this information, including the large ''9.9 percent,'' is on an easily understandable sheet.

It is a shame we have to resort to putting font sizes into legislation, but if you look at the old ''Schumer box,'' with all the legalese, you will know that we need it.

Armed with better information, consumers will avoid some of the financial missteps that can send them into bankruptcy. That is a goal we all share.

So I urge my colleagues to support this amendment proposed by the Senator from Pennsylvania, Mr. SANTORUM, and myself. I urge that we could come together, in a bipartisan way, on an amendment that makes good sense, that improves the legislation. And then if someone falls into bankruptcy—which we hope does not happen—at the very least it would mean they knew what they were getting into.

Mr. President, how much time do I have left on the 15 minutes that have been yielded to me?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. SCHUMER. Six minutes.

Mr. President, I reserve that 6 minutes to wait for the Senator from Pennsylvania to come speak and for me to conclude.

Thank you, Mr. President.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I understand that the Senator from Illinois has yielded 4 minutes to me.

AMENDMENT NO. 2754

Mr. KENNEDY. Mr. President, I add my support for the amendment that has been offered by the Senator from

Connecticut, Mr. DODD, to address the explosion of credit card debt because students on college campuses are offered credit cards. The amendment, as has been outlined, prohibits credit card companies from giving an individual under the age of 21 a credit card unless the young person has income sufficient to repay the debt or a parent or a guardian, or other family member over the age of 21, to share the liability for the credit card.

The point has been made, but I think it needs to be underlined, that when you get right behind this whole issue, what is happening is that the credit card companies are making these credit cards so available to young people who are attending college that the credit cards are effectively irresistible. The amount of debt that is being run up by these students is escalating into significant figures. What inevitably happens is that the parents are required, by one reason or another, to assume the debt obligation. That is the background, really, on why these efforts are being made by the credit card companies.

What isn't so evident is the kind of turmoil, anxiety, and depression that surrounds this whole atmosphere of student debt. What we found, in the course of the hearings on the Judiciary Committee, in a number of the different presentations that were made while considering the bankruptcy legislation, is that it isn't only the financial obligations that were assumed, but that many of the young people, who had stellar academic records, who were outstanding students in all forms of behavior, who were actually seduced by these credit card obligations and responsibilities, when they found they were unable to free themselves from these kinds of obligations, went into severe depression and into adverse behavior, where the students had tensions in their relationships with their parents, assuming an entirely different chapter in their development. And this is something that is happening with increasing frequency across this country.

The kind of recommendations that the Senator from Connecticut has outlined in the amendment is a very modest and reasonable way of addressing the excesses of this particular phenomenon taking place. This is the place to be able to do it.

I welcome the chance to join with Senator DODD in urging that this particular amendment be adopted. It makes a great deal of sense in terms of the young students in this country. It makes a great deal of sense in terms of their parents, most of whom are hard working, decent parents who get caught up in these obligations, assuming the debts of their children. It puts an extraordinary burden on them as well.

This is a winner for the students and for their parents and for more sensible and responsible bankruptcy legislation.

I reserve the remainder of the time.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

AMENDMENTS NOS. 2659 AND 2661, EN BLOC

Mr. DURBIN. Mr. President, I ask unanimous consent to call up amendment No. 2659, regarding credit counseling, and amendment No. 2661, regarding prescreening for debtors between 100 and 150 percent of median income, and to immediately set them aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative assistant read as follows:

The Senator from Illinois [Mr. DURBIN] proposes amendments numbered 2659 and 2661, en bloc.

The amendments are as follows:

AMENDMENT NO. 2659

(Purpose: To modify certain provisions relating to pre-bankruptcy financial counseling)

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 without court approval.''

AMENDMENT NO. 2661

(Purpose: 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)

On page 7, between line 14 and 15, insert the following:

''unless the conditions described in clause (iA) apply with respect to the debtor.

''(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; or

''(bb) $15,000.

The PRESIDING OFFICER. Without objection, the amendments are set aside.

Mr. DURBIN. How much time is remaining on the debate?

The PRESIDING OFFICER. Eleven minutes 30 seconds for that side; 11 minutes for Senator GRASSLEY.

AMENDMENT NO. 2521

Mr. DURBIN. Shortly the Members of the Senate will have a chance to vote on an amendment to which I hope they will give consideration. It is an amendment which addresses a segment of the credit industry which represents the bottom feeders. These are the people who prey on the vulnerable in society. These are the people who try to ensnare vulnerable, frail, elderly, and sick people into literally signing over the only thing they own on Earth—their homes.

You have seen the cases. You have read about them in the papers and seen the exposes on television. They find a widow living alone in her home. They come in and want to sell her some siding or a new roof or new furnace. The next thing you know, she has a second mortgage on her home. The terms of the mortgage are outrageous. She finds herself losing the only thing she has left on Earth—her home. These are so-called ''equity predators.''

I salute the Senator from Iowa, Mr. GRASSLEY, who is the manager of this bill on the Republican side, because he had a hearing in March of 1998 of the Special Committee on Aging of the Senate that was dedicated exclusively to this outrage in the credit industry, that these people would come in and prey on so many vulnerable people.

Let me quote Senator GRASSLEY. I do not know if I have his permission, but I did give him notice that I would read this from the hearing. He said:

Before we begin, I want to quote a victim—a quote that in my mind sums up what we are all talking about here today. She said the following: ''They did what a man with a gun in a dark alley could not do. They stole my house.''

That is what is happening, time and again, when these unscrupulous creditors and lenders prey on the elderly and people who are less educated and end up taking something away from them that they have saved for their entire lives.

What does my amendment do? My amendment says that if this plays out, if they end up ensnaring some poor person into their trap, so that they stand to lose their home, and ultimately that person has to go bankrupt because of this unscrupulous lender, when they go to bankruptcy court, that same equity creditor cannot take away their home. If that person did not follow the law that requires full disclosure and fair treatment of people who are loaned money, they cannot come to bankruptcy court and end up with the deed to the home of an elderly widow. I think that is simple justice. It was a question before this Senate today as to whether or not, when we talk about abuses by those filing for bankruptcy, we will be equally outraged by abuses by creditors such as these predatory lenders who use our legal system and our bankruptcy court to literally push through processes that take away from people things they have saved for their entire life. They are serial credit predators. They prey on the elderly, the less educated, the frail, and the vulnerable. They are the bottom feeders in the credit industry. My amendment will give my colleagues in the Senate a chance to tell them once and for all, stop this devious conspiracy to go after the elderly in America.

How many people are affected by this? So many that in the State of California they have set up a special

fraud unit to go after these predatory lenders.

I am sad to report that as I stand here today, many reputable lenders are opposing my amendment. What does that say about them? If they are opposing my amendment to go after the bad guys, how does that reflect on the good guys in this business? I don't think it tells a very good story.

The groups supporting my amendment include the Consumer Federation of America, the Consumers Union, National Consumer Law Center, the U.S. Public Interest Research Group, the UAW, and others who have decided, as I have, that we should put an end to this once and for all, as is stated in their letter in support of my amendment: As consumers who receive these loans are commonly forced into bankruptcy, it is essential to create a bankruptcy remedy that protects debtors and other honest creditors from the predators who seek to enforce these loans.

Let me give a couple examples of these loans. Lillie Coleman is a resident of New City in Illinois, 68 years old, living on a pension. In comes a person who says: I'll tell you what I will do, Ms. Coleman. I know you own a house. I will consolidate all your debts, and I will lend you $5,000 for home improvement. The next thing you know, she has signed a $65,000 mortgage on the home she owned and had worked for for a lifetime. The next thing you know, they are holding these closings without inviting her. They are not giving her the papers to sign. They have broker's fees that were never disclosed to her. They find out that checks that were supposed to go to her creditors aren't going to creditors. They are finding out basically that there is money missing.

There sits Ms. Coleman with a second mortgage on her home and the prospect of losing her home in her retirement at the age of 68. Those are the people we are talking about. Those are the folks knocking on the doors, ringing the telephone off the hook night and day, sending all these luring mailings to people saying: You can just sign the back of this little check, and the next thing you know, there will be money in your hand.

The next thing you know, there is a new mortgage on your home. And if you miss a payment or if you don't understand the terms, you could lose it.

It didn't just happen in Illinois. It happens all over the place. In fact, it has happened in Utah, two or three cases of balloon payments. Do you know what a balloon payment is? You make the regular monthly payments; everything is going along fine. There is a small clause in the contract that says: At one point in time you had better come up with $49,000 or you lose your home. That is a balloon payment. Many borrowers don't know the details, particularly if they are folks who are elderly. They don't see well. They may not hear well. They think they are doing the right thing. They, of course, have the legal capacity to sign a contract. The next thing you know, they end up with their home on the line. They may end up in bankruptcy court.

What I am saying with this amendment is, we are not going to give them a chance to use the bankruptcy courts of America as a fishing expedition for the well-earned assets of American families.

This amendment was part of the bankruptcy bill we passed last year 97–1. If there is anybody sitting on the floor saying this idea is way too radical, they voted for it last year. They voted for it last year 97–1. It is something that should be part of this bill.

If you are outraged by the lawyers who are ripping off the system, as I see my friend, the Senator from Alabama, on the floor, who brings this up regularly, if you are outraged by those who go to bankruptcy court who shouldn't be there, share your outrage when it comes to these predatory lenders. Join me in passing an amendment that tells them once and for all, you can't use our legal system to continue this deceptive scheme.

We have found in the course of researching this matter that there are several different approaches these predatory lenders use. They engage in practices where they lend somebody money far beyond their ability to repay. They know going in, with a borrower of limited savings and equity in a home, that they can put that borrower on the spot where, in a short period of time, they are going to default.

We know as well that they try to make an arrangement saying: I will tell you what, we will put the siding on the home. We will make the direct payments to the home contractor, and don't you worry about it. The next thing you know, they have signed the mortgage, the home contractor is not paid, and the poor widow finds herself being assaulted in every direction by those who expect to be paid and finds herself in bankruptcy court.

They impose illegal fees, such as prepayment penalties or increased interest rates at default. They impose balloon payments due in less than 5 years. We have a group of people who are gaming the system at the expense of the most vulnerable people in America.

This amendment does not add any additional requirements to current law. It says that those who want to lend money have to themselves obey the law. If you want to stand for law and order when it comes to somebody coming into bankruptcy court, a debtor who can no longer pay their debts, if you want to establish new and higher standards for them so that they don't rip off the system, for goodness' sake, show some heart when it comes to those who are in bankruptcy court through no fault of their own. They are elderly people who signed onto the contract, and the next thing you know the only thing they own on Earth is at risk.

I have considered this amendment. I have read the transcripts of hearings, particularly the one from Senator GRASSLEY's Committee on Aging. I have read some testimony there that I think says it all. But Senator GRASSLEY's own words really put this in context. In March of 1988, he said as follows:

> What exactly are we talking about when we say that equity predators target folks who are equity-rich and cash-poor? These folks are our mothers and our fathers, our aunts and our uncles, and all people who live on fixed incomes. These are people who oftentimes exist from check to check and dollar to dollar, and who have put their blood, sweat and tears into buying a piece of the American dream, and that is their own home.

Senator COLLINS of Maine at the same hearing noted, I think accurately, that we need higher legal standards for those who provide financial services to senior citizens. Let me remind the Senate, I don't impose a higher legal standard here. I only say that those who want to take advantage of the bankruptcy court have to come in with clean hands. If they have been guilty of misuse of the law, dereliction of duty, or violation of the law, they should not be allowed to recover.

Senator LARRY CRAIG, a Republican of Idaho, said at the same hearing: There are many loopholes found in existing protection laws which can and are easily exploited by these creditors. Statements by Senator ENZI and so many of my colleagues attest to the fact that they know that in every State in the Union these smoothies are at work.

The question today before the Senate is what we will do about it. These low-life lenders who give the Merchant of Venice credit standards a good name are the people who will be protected if the Durbin amendment is defeated.

I hope if we are going to hold to a high standard those seeking relief in bankruptcy court, that we start with those who have been shown time and time again to have taken advantage of the system.

I reserve the remainder of my time.

The PRESIDING OFFICER. All time on the Democratic side has expired.

Mr. GRASSLEY. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, what we have before us this afternoon is a perfect example of what can happen when a bankruptcy bill is on the floor, and Members are offering amendments that have nothing to do with bankruptcy law but everything to do with banking.

We have two amendments before us, and I have a short period of time, so I'll make my points briefly.

The amendment offered by Senator DURBIN basically attempts to enforce the truth-in-lending law—which has many remedies under current banking law, including damages, including class action suits—through a new mechanism, the bankruptcy courts.

What is the practical import of all this, and why is this opposed by virtually everybody who is involved in mortgage lending?

Basically, it is a violation of truth in lending to lend money to someone who is not capable of paying it back. So, if we change the law—if we change permanent banking law as part of this bankruptcy bill—to say that if a borrower can prove that someone violated the Truth in Lending Act, then he doesn't have to pay back his mortgage loan when he's in bankruptcy, what is going to happen?

What is going to happen is that everybody in bankruptcy who has a mortgage loan is going to file a lawsuit claiming, Well, obviously, I am bankrupt, so the lender should have known I could not pay this loan back; therefore, under the Durbin amendment, I should not have to pay it back.

This is an absurd amendment that would undercut truth in lending, which has more enforcement powers than most other lending laws in America, by literally creating a situation where every deadbeat would file a lawsuit saying: I have gone bankrupt because I have spent my money. I have not paid my bills, and because I have gone bankrupt, it is the bank's fault; therefore, I should be able to default on my mortgage. Which would mean that every honest person in America who pays their bills, who sacrifices and saves their money and pays off their mortgage, will end up paying a higher rate of interest.

So I hope our colleagues will roundly defeat this amendment. It has absolutely nothing to do with bankruptcy law, and everything to do with banking law, and it should not even be considered.

The second amendment I want to mention is paternalism at its worst, and that is the amendment of my dear friend, Senator DODD, which would require students between the ages of 18 and 21 to get parental consent in order to be issued a credit card.

I want to remind my colleagues that college students who are 18 and older are adults under Federal law for purposes of credit. This amendment would therefore be a violation of the Federal Equal Credit Opportunity Act, which prohibits the use of age on a discriminatory basis against anyone over 18 years of age.

The second point I want to make is that this concern about the danger of students having credit cards is based on a myth. Fifty-nine percent of all college students in America pay their balance in full at the end of the month. But only 40 percent of the general population pays their balance in full. Eighty-six percent of students pay their credit cards with their own money, not with their parents' money. The plain truth is that college students are better credit card risks than the general population. It is obvious that if you are dealing with people who are highly motivated, highly disciplined, successful college students, you want them to become your customer because they are going to go out and make a lot of money and become very profitable customers. The idea that we would be engaged in this sort of paternalism, which would require every student in America, even though it is against the law for the bank to discriminate against them if they are over 18—

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. GRASSLEY. Mr. President, I will yield the Senator 1 more minute, the Senator from Pennsylvania 2 minutes, and the Senator from Alabama 3 minutes. That will be the remainder of our time.

The PRESIDING OFFICER. The Senator from Texas may continue for another minute.

Mr. GRAMM. Mr. President, the idea that we in the U.S. Congress are going to pass a law that takes adults, under our Federal credit statutes, and force them to go back to their parents in order to get a credit card, when the credit behavior of students is superior to the general population, is simply an outrage. Our Democrat colleagues cannot get it right. When we debated the banking bill, they were concerned that banks wouldn't lend money to people who are needy. But when we are debating the bankruptcy bill, it is the bank's fault for lending too much money to people who are needy. They can't quite get it straight. I guess it varies depending on which bill are considering. Both of these amendments should be roundly defeated.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I thank the Senator from New York for his amendment dealing with disclosure—as the Senator from New York talked about in his remarks—on credit card solicitations, as to what the real interest rate is that is going to be involved and all the other information that is necessary for consumers to make intelligent decisions as to whether to contract with a credit card company.

All of us get solicitations—I do every day—in the mail offering outrageously low rates of interest. I have looked through them and it is very difficult, even for somebody who is somewhat sophisticated in looking at this information, to find what the true interest rate is and the true terms of the credit card for which you may be signing up.

What the amendment of the Senator from New York does is put it in an obvious place, in clear and bold type, in a box, in a format that people are used to using, as a result of his legislation from a few years ago with respect to credit card statements. This would make it applicable to applications and to solicitations. I think it is a constructive amendment, a disclosure-oriented amendment. It is not something I think is unduly burdensome and it can be helpful to everybody, not just seniors and the others who may have difficulty reading the small print and understanding very complex legal documents but also the average consumer who wants to be able to make intelligent decisions. And what we are looking at in this bill is the failures as a result of credit card overpayments, as a result of decreased savings rates. This is the kind of commonsense type of thing we ought to be supporting.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I know some young people get in trouble by overspending their credit cards. A lot of adults get in trouble for that. The fact is, I don't believe we, as part of an effort to reform the bankruptcy court, need to be, at this moment, offering amendments; that ought to be done in the Banking Committee. There have been complaints about the fact that credit card solicitations are mailed out to people. Let me say this: We have had a banking bill in which Members have been outraged that banks won't loan to high-risk people, and they are complaining about not making enough loans. It is odd, striking, and shocking to me that poor people are being told they ought not to be even offered credit cards. Some say they are being mailed credit cards. Not so. It is a Federal law, a crime, and it is prohibited to mail credit cards unrequested to somebody. What they are receiving is offers of credit cards. They have to fill out forms and show their income and all that, and they may or may not get it once they fill it out. But to say you can't even offer a person below the poverty level a credit card is amazing to me. Credit cards are good for poor people.

If somebody has a credit card and his tire blows up and he needs a set of tires for his car and doesn't have $200 cash, what is he going to do, park it until he can save up the money? With a credit card, he can do that and pay it off as he can. Credit cards are valuable things for poor people, for heaven's sake.

For young people, we have this vision that an 18-year-old at college who is being funded by mama runs up a big debt on his credit card. The truth is, a lot of people are not doing that. A lot of people who are 18, 19, and 20 years old will be affected by this legislation, and they may be married, out on their own, going to college during the night, and working during the day. They have to get mama and daddy to sign on before they can even get the credit card they may need to help them through the unexpected expenses that may occur for them.

The suggestion that somehow poor people are being oppressed by being offered credit cards is beyond my comprehension. In fact, one of the good things that is occurring is that we are seeing some competition now. Rates are coming down. People have alternatives. They can cancel a card and get a better card.

The PRESIDING OFFICER. All time has expired. The question is on the Durbin amendment No. 2521.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Is the Durbin amendment the first vote?

The PRESIDING OFFICER. Yes.

Mr. REID. Mr. President, under the unanimous consent agreement, Senator DURBIN and whoever wants to close on that side have 2 minutes, correct?

The PRESIDING OFFICER. There is no unanimous consent agreement to that effect.

Mr. REID. Based on what we have done in the past, Senators have been expecting that. I ask unanimous consent that on this amendment and the other, there be 4 minutes evenly divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois is recognized for 2 minutes.

Mr. DODD. Reserving the right to object, does that also apply to the Dodd amendment?

The PRESIDING OFFICER. There was also an agreement on the Dodd amendment.

The Senator from Illinois, Mr. DURBIN, is recognized.

AMENDMENT NO. 2521

Mr. DURBIN. Mr. President, this amendment was enacted by the Senate as part of the bankruptcy bill last year. The bill received a vote of 97–1. It imposes no new legal duties on creditors or lenders but says they must follow the law if they want to take advantage of the law.

We are talking about equity creditors, lenders who prey on people who are disabled, elderly, vulnerable, and less educated. Folks on a fixed income with a home end up with a new mortgage because they wanted siding on their home or a new roof and several months or years later find out they are about to lose the last thing they have on Earth—their home—because of unscrupulous practices by these creditors.

The bottom line is this: If we are going to have rules in this society for borrowers, we should also have rules for creditors. The rules are called the law. If they do not follow the law, they can be thrown out of bankruptcy court if they are a borrower. If they do not follow the law and the Durbin amendment passes, they will be thrown out of the court because they have been guilty of unscrupulous credit practices, taking advantage of the elderly.

All the Senators on the floor who have lamented the scandalous behavior of these creditors in the past have a chance now to vote for an amendment to tell them once and for all that their low-life tactics are unacceptable in America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, we have a truth-in-lending law. It is vigorously enforced with many remedies, including damages in class action lawsuits.

Senator DURBIN's amendment would make bankruptcy courts, which have no jurisdiction over truth in lending whatsoever, an enforcement mechanism of the truth-in-lending law. This produces an absurd situation. Under truth in lending, the lender has an obligation to make some assessment about the borrower's ability to pay. Under this amendment, everyone who is in default or in bankruptcy will be able to argue that the bank should have known that the lender could not pay the loan back and therefore the mortgage should be forgiven.

The net result is that hard-working, frugal people who save money and pay their debts would end up paying hundreds of millions of dollars, billions of dollars, in additional interest costs to cover people who would file lawsuits claiming, ''Well, I went broke and it's the bank's fault, and therefore I shouldn't have to pay my mortgage.''

This amendment should be defeated. Giving one court, which has no jurisdiction over the pertinent law, the ability to enforce that law, which rightly belongs in another court, is, I think, a gross violation of logic and the basic structure of the legal system. This is a bad amendment that will produce an even worse situation where honest people who pay their debts will end up paying higher interest rates for people who don't pay their debts.

I move to table the Durbin amendment.

Mr. GRASSLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2521. The yeas and nays have been ordered. The clerk will call the roll.

The legislative assistant 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.

Mr. REID. I announce that the Senator from South Carolina (Mr. HOLLINGS) is absent because of a death in the family.

The result was announced—yeas 51, nays 46, as follows:

[Rollcall Vote No. 358 Leg.]

YEAS—51

Abraham	Enzi	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bennett	Gramm	Roberts
Bond	Grams	Roth
Brownback	Gregg	Santorum
Bunning	Hagel	Sessions
Burns	Hatch	Shelby
Campbell	Helms	Smith (NH)
Chafee, L.	Hutchinson	Smith (OR)
Cochran	Hutchison	Snowe
Collins	Inhofe	Stevens
Coverdell	Johnson	Thomas
Craig	Kyl	Thompson
Crapo	Lott	Thurmond
DeWine	Lugar	Voinovich
Domenici	Mack	Warner

NAYS—46

Akaka	Feingold	Lincoln
Baucus	Feinstein	Mikulski
Bayh	Graham	Moynihan
Biden	Grassley	Murray
Bingaman	Harkin	Reed
Boxer	Inouye	Reid
Breaux	Jeffords	Robb
Bryan	Kennedy	Rockefeller
Byrd	Kerrey	Sarbanes
Cleland	Kerry	Schumer
Conrad	Kohl	Specter
Daschle	Landrieu	Torricelli
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	Wyden
Durbin	Levin	
Edwards	Lieberman	

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—2

Hollings McCain

The motion was agreed to.

Mr. LOTT. I move to reconsider the vote.

Mr. COVERDELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SMITH of Oregon). The majority leader.

UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR NO. 257

Mr. LOTT. As in executive session, I ask unanimous consent that immediately following the next vote, the Senate proceed to executive session and an immediate vote on Calendar No. 257, the nomination of Linda Morgan to be a member of the Surface Transportation Board. I further ask consent that immediately following the vote, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

Let me confirm, as a result of this vote, there are about five or six other nominations that will be cleared tonight in wrapup.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

BANKRUPTCY REFORM ACT OF 1999—Continued

Mr. LOTT. Mr. President, I ask unanimous consent that the next two votes be 10-minute votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2754

The PRESIDING OFFICER. Under the previous order, there are now 4 minutes equally divided prior to the vote on or in relation to the Dodd amendment No. 2754.

Who yields time?

Mr. KENNEDY. Mr. President, Senator DODD and I have proposed an amendment to address the explosion of credit card debt offered to students on college campuses.

The amendment prohibits a credit card company from giving an individual under the age of 21 a credit card unless the young person has income

sufficient to repay the debt or a parent, guardian, or other family member over the age of 21 shares liability for the credit card. Credit card applications and solicitations must disclose this information to potential consumers.

This amendment is particularly appropriate during debate on bankruptcy reform legislation. We know that credit card debt may not be the sole factor leading to bankruptcy, but for many individuals it is a significant contributing factor.

Congress should be particularly concerned that since 1991, there has been a 50-percent increase in bankruptcy filings by those under the age of 25. In many cases, these are young men and women who are just establishing their independence—and just starting to build a credit history. Poor financial decisions, especially credit card mismanagement can have long-term implications.

We know the siren song of the credit card industry is loud and clear. In 1998, credit card issuers sent out 3.45 billion credit card solicitations to people of all ages, including college students and others who may not have the ability to repay their debts. In fact, First USA recently issued a credit card to 3-year old Alessandra Scalise. Alessandra's mother said she accurately completed and mailed in the preapproved credit card application as a joke. There was no Social Security number or income listed and Alessandra's occupation was listed as ''preschooler.'' Apparently, this didn't make a difference to First USA. Alessandra received a Platinum Visa with a $5,000 credit limit.

This incident may be attributable to ''human error'' but there are numerous examples of irresponsible lending practices by credit card issuers—especially when they lend to students who don't have the capacity to repay their debts.

For example, one Discover platinum card issuer's terms of qualification require a minimum household income of $15,000 unless you are a full-time student. Discover explains that an individual either has to have a $15,000 minimum income or needs to prove that they are a full-time student. Student applications are rejected only if they have a bad credit history—a prior bankruptcy filing, for example—or if their student status can not be confirmed.

During a February 1998 Banking Subcommittee hearing, Senator SARBANES asked credit card issuers how they determined student income. Bruce Hammonds, senior vice chairman and chief operating officer of MBNA Corporation responded if a student has a loan, ''that means they do not have to pay tuition in most cases and we are looking at that tuition payment. Then we would not count the tuition payment against them with their income and expense analysis.'' In other words, the company ignores the reality of tuition and views a student loan as ''free'' money—an income stream that can be used to repay credit care debt.

Not surprisingly, credit card companies have unleashed a well-organized and pervasive campaign to attract student consumers. Credit is available to almost any college student—no income, no credit history, and no parental signature required. The National Bankruptcy Review Commission received an advertisement for a 2-day workshop for creditors entitled, ''Competing in the Sub Prime Credit Card Market,'' including a presentation entitled, ''Targeting College Students: Real Life 101,'' with tips on how to ''target the money makers of tomorrow.''

Students are targeted by the industry the moment they step on to a college campus. Applications are placed in their book bags at the student store, and tempting gifts and bonuses and low teaser rates are used to entice them to send in the application. The American Express Card for College Students has a teaser rate of 7.75 percent for the first 90 days, then it more than doubles to 15.65 percent. Perks include Continental Airlines travel vouchers. The Citibank College Card for Students initial rate is 8.9 percent for 9 months and then it skyrockets to 17.15 percent. The incentive? Eight American Airlines travel coupons.

Brian is a student at the University of Minnesota. He said,

> They gave me a free T-shirt and a water bottle to apply for their credit cards. My clever plan? To sucker them out of their prizes and cut up the cards. $4,000 later . . . I stopped spending . . . In my glory days, I was like King Midas, pointing to things and turning them into my own . . . For me, the worst temptation was food . . . While listening to tunes on your new stereo and munching take out food, the monthly payment seems easy to pay, especially when you can get a cash advance to cover it.

The ads are tempting, too. One ad directly targeting students reads: ''Free from parental rule at last. Now all you need is money. Cha-Ching! Get 3 percent cash back on everything you buy.''

The Internet is the new frontier for credit card advertising to students. When a student clicks on ''www.studentcreditcard.com'' he or she finds a treasure trove of shopping offers and discounts, as well as the assurance of 3 percent cash back. Students are told that, ''It's totally simple. Spend $200 on an item with your card and you have an extra six bucks in your pocket. Spend another $400, that's $12. It adds up fast when you use The Associates Student Credit Card for all your purchases.''

The web site includes some information on establishing a good credit record, but nothing compared to the bonuses and incentives for student consumers.

Not surprisingly, college students respond to solicitation by credit card companies. A recent study by Nellie Mae found that 60 percent of undergraduates have credit cards and 21 percent have 4 or more cards. The median credit card debt among students is $1,200 and 9 percent of students have debt between $3,000 and $7,000. Five percent of students have credit card debt exceeding $7,000.

Other studies replicate similar findings. A June 1998 national survey by the Education Resources Institute—''Credit Risk or Credit Worthy''—found that 55 percent of students obtained their first card during their first year of college and a significant proportion received their first credit card while still in high school.

The study argues that many students use credit cards reasonably, but the facts and statistics are disturbing. Fifty-two percent of students say that one of the most important reasons to have a credit card is to ''build a credit history'' and 45 percent say it's to use in an emergency, but the survey shows that 77 percent of all student credit card purchases were for ''routine personal expenses''—a category that may include a wide-range of items.

While attending Villanova, Meghan charged $15,000 on her credit cards. When she and her friends first applied for the cards they decided to keep them for emergencies, only. But, according to Meghan, they would ''end up buying things . . . or taking cash advances just to live on.'' Meghan planned to get a job to pay off her debt, but that didn't happen. Instead, her mother paid-off the balance on the card—twice.

What's particularly troubling is that many students who use their credit cards when they ''run out of checks'' or are ''on Spring Break'' don't realize the financial implications of credit. In a September 1999 article, Joan Bodnar, senior editor of Kiplinger's Personal Finance Magazine wrote, ''Kids tend to equate credit cards with free money—in a recent survey of college students, fewer than half of those interviewed knew the interest rate on their cards.''

Similarly, a 1993 American Express/Consumer Federation of America study of college students revealed that college juniors and seniors only have a ''fair'' understanding of financial services products, and few appear to understand an annual percentage rate. A similar study of high school seniors reveals that they have a ''poor'' understanding of such products.

The result? College students with no income and good intentions often find themselves in debt with no way out. For example, of the 20 percent of students who report an average balance greater than $1,000, half of those students have four or more credit cards and only 18 percent pay off their outstanding balances every month. In addition, 48 percent of these students have other debt and nearly one-third have charged tuition and fees.

The economic and emotional consequences of credit card debt can be devastating—even deadly—for many students. Tricia Johnson received a desperate call from her daughter, Mitzi, a student in her first year at the University of Central Oklahoma. Mitzi had lost her part-time job and was

afraid she could not pay her debts. Mrs. Johnson tried to comfort her distraught daughter. But, later that night, Mitzi committed suicide. She had accumulated $2,500 in credit card debt, but her weekly income rarely exceeded $65. When the police found Mitzi, credit cards were spread across her bed.

Janie O'Donnell—the mother of Sean Moyer, a National Merit Scholar attending the University of Oklahoma—had the same devastating experience. In 1998, Sean told his mother he had no idea how to get out of his financial mess, and he did not see much of a future for himself. Sean had moved home to save money and pay off the $10,000 he owed Visa and Master Card. A week later, he committed suicide.

A study by the University of Minnesota in 1996, suggests that credit card debt by students often goes hand in hand with stress and depression. Two-thirds of students who said they were taking medication for depression had more than $1,000 in credit card debt. The study also found that as credit card debt increased, the student's grade point average went down. In 1998, a University of Indiana administrator said, ''we lose more students to credit card debt than to academic failure.''

Tennessee legislators were disturbed by a study that revealed a large number of Tennessee bankruptcy filers to be surprisingly young, and they are taking action. Several bills were introduced, and the state Senate passed legislation that gives students an opportunity to remove their name from solicitation lists.

It's time for Congress to take action as well. The purpose of the amendment before the Senate is to ensure responsible lending by credit card companies to students. In fact some credit card issuers are adhering to self-imposed restrictions that are more narrow than the Dodd/Kennedy amendment. For example, Dorinda Simpson, CEO of American Partners Federal Credit Union testified that when issuing student credit cards, they set a $500 credit limit and require a co-signor ''so parents know up front what we are loaning to that college student.''

This amendment doesn't go that far. It requires credit card companies to either establish that a student has the income to repay the debt or have a co-signor.

The requirements aren't overly burdensome. They won't disadvantage 20-year-olds in the military—they have an income. They won't disadvantage a student with deceased parents—another person may co-sign or the student may have income. They won't disadvantage a 19 year-old, non-college student who is between jobs—that person may have unemployment compensation or another form of income.

And, finally, this amendment is not a form of lending discrimination. When similarly situated individuals aren't treated equally, that's discrimination. When underwriting standards are based on perception instead of facts, that's discrimination. But, requiring credit card issuers to stop preying on college students they know don't have a means to repay debt—that is ensuring responsible behavior.

I urge my colleagues to support this amendment.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, very briefly, the amendment that I have offered, along with Senator KENNEDY, does the following: It says for persons between the ages of 18 and 21, you must either prove you have the ability to pay or to have a parent, guardian or some qualified person cosign your credit card application. The reason for this provision is because there is an alarming increase.

Mr. SARBANES. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will please be in order. Will Senators having conversations please take them into the Cloakroom.

The Senator from Connecticut.

Mr. DODD. Thank you, Mr. President.

There is an alarming increase in the number of young people who are being swamped with credit card applications where with merely their signature and the showing of a student ID they can receive credit of up to $10,000. In fact, today, the average college student, who does not pay their monthly balance, has a credit card obligation of $2,000. And one-fifth of those have credit card obligations of $10,000 or more. We are being told now that one of the largest reasons for disenrollment in higher education is because of credit card debt.

My amendment merely says that between the ages of 18 and 21, you must either prove you have the ability to repay or you must have a cosignature by a parent, guardian, or other qualified individual with the means to repay. It is not outrageous to ask credit card companies to require this kind of information. Students are receiving, on the average, 50 credit card applications in their first semester of college.

We set the age of 21 for legal consumption of alcohol in this country. The IRS has a presumption of age 23, if you are in college, in terms of student obligations in loans.

By merely requesting that the credit card companies ask for this basic information, we can slow down this alarming increase in the number of young people who are incurring tremendous debts. Many of these kids are dropping out of school as a result of these debts.

Mr. President, I urge adoption of this amendment to stop this alarming trend of too many young people, while at too young an age, incurring unreasonable credit card debts.

The PRESIDING OFFICER. The time has expired.

I must say before the Senator speaks, the Senate is not in order. Will the Senate please come to order.

The Senator from Utah.

Mr. HATCH. Mr. President, this amendment unfairly discriminates against young adults, and I think it should be opposed. Adults between the ages of 18 and 21 can defend our country in the military. Yet under this amendment, they will not be able to even get a credit card without overcoming regulatory obstacles in their way.

Many young adults, some of whom are students and are supporting young families, need access to credit cards to make their lives just a little bit easier. So I oppose this paternalistic amendment.

I remember what it was like to work in a low-paying job as a janitor. I can appreciate the benefits that being able to obtain credit will provide to hard-working young adults.

Keep in mind, many in this group oppose parental consent for abortion, and you are going to impose parental consent on young adults who may be working, who may have families, who may be in the military, who may be as responsible as anybody else. It just plain isn't right. I do not think we should vote for that.

So I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table amendment No. 2754. 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) is necessarily absent.

Mr. REID. I announce that the Senator from South Carolina (Mr. HOLLINGS) is absent because of a death in family.

The result was announced—yeas 59, nays 38, as follows:

[Rollcall Vote No. 359 Leg.]

YEAS—59

Abraham	Feingold	McConnell
Allard	Frist	Murkowski
Ashcroft	Gorton	Nickles
Bennett	Gramm	Robb
Biden	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Bryan	Hagel	Sessions
Bunning	Hatch	Shelby
Burns	Helms	Smith (NH)
Chafee, L.	Hutchinson	Smith (OR)
Cleland	Hutchison	Snowe
Cochran	Inhofe	Specter
Collins	Johnson	Thomas
Coverdell	Kohl	Thompson
Craig	Kyl	Thurmond
Crapo	Lincoln	Torricelli
DeWine	Lott	Voinovich
Domenici	Lugar	Warner
Enzi	Mack	

NAYS—38

Akaka	Boxer	Conrad
Baucus	Breaux	Daschle
Bayh	Byrd	Dodd
Bingaman	Campbell	Dorgan

Durbin	Kerry	Reed
Edwards	Landrieu	Reid
Feinstein	Lautenberg	Rockefeller
Graham	Leahy	Sarbanes
Harkin	Levin	Schumer
Inouye	Lieberman	Stevens
Jeffords	Mikulski	Wellstone
Kennedy	Moynihan	Wyden
Kerrey	Murray	

ANSWERED ''PRESENT''—1

Fitzgerald

NOT VOTING—2

Hollings McCain

The motion was agreed to.

Mr. REID. I move to reconsider that vote.

Mr. BROWNBACK. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BREAUX. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BREAUX. Mr. President, I ask the attention of the managers. I understand there is an informal agreement to allow myself and my colleague, Senator FRIST, to proceed for 5 minutes as in morning business. If that is the case, I ask unanimous consent I be allowed to proceed as in morning business for 5 minutes followed by my colleague from Tennessee with the same request.

Mr. DODD. Reserving the right to object, is that with the understanding that at the conclusion of the 10 minutes I have the opportunity to offer my amendment?

Mr. REID. Reserving the right to object, if the Senator will withhold, we are attempting to get unanimous consent agreement so we can move on.

Mr. DODD. If the Senator from Tennessee and the Senator from Louisiana want to proceed, that is fine.

Mr. REID. If we get unanimous consent, the Senator can interrupt.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Louisiana is recognized for 5 minutes.

MEDICARE REFORM

Mr. BREAUX. Mr. President, I take this time with my distinguished colleague, Senator FRIST from Tennessee, and our distinguished colleague, Senator BOB KERREY, who served with me on the National Bipartisan Commission on the Future of Medicare, to offer what I think is the first ever comprehensive Medicare reform bill to be introduced since the advent of Medicare back in 1965.

We introduced a bill today. It is available for consideration by our colleagues. I hope this legislative effort becomes the marker for future discussions and debate on the question of what we do with Medicare. We introduced the bill today because we think it is absolutely essential that the Congress in this session take up the question of how to reform the Medicare Program that is currently serving 40 million Americans.

We did it essentially for two reasons. First of all, the program that the seniors now benefit from is not nearly as good as it should be nor nearly as good as it can be. Medicare today is noted more for what it does not cover than for what it actually covers. As an example, it does not cover prescription drugs; it does not cover eyeglasses; it does not cover hearing aids—three examples of things our seniors need and need very desperately.

So in addition to not covering these items, it does not cover a number of other expenses, including about 47 percent of the expenses for seniors who are not covered by Medicare insurance. They have to go out and buy supplemental insurance. So the program is not nearly as good as it should be, nor as good as we could make it.

The second reason we have introduced it is because, as bad as the program is, it is going broke. By the year 2020, one-half of all the revenues to fund the Medicare program are going to have to come out of general revenues. It was never intended to come out of general revenues. It was supposed to be paid from the payroll tax. But, by 2020, over half the costs of the program are going to have to come from general revenues. In addition, by the year 2015, the program is going to be insolvent. It is going to be broke. There is not going to be enough money to pay for the benefits the seniors currently get.

For those two reasons, we have built on what the Medicare Commission recommended, expanded on it, and improved upon it, to present to our colleagues the first ever comprehensive Medicare reform bill.

Basically, building on the Federal Employees Health Benefits Plan, we are saying about the plan that I, as a Senator, have, and what all of our colleagues and all the House Members and the other 10 million Federal employees have, is if it is good enough for them, it should also be good enough for our Nation's seniors.

What we have suggested is we pattern a new Medicare program based on the Federal employees plan. We would create a Medicare board, which would be appointed by the President, confirmed by the Senate, for 7-year terms. They would guarantee all the plans being submitted to serve our seniors would ensure quality standards. They would negotiate the premiums. They would approve the benefits package. They would make sure there are safeguards against adverse selection of only healthy seniors. They would provide information to our seniors.

This Medicare board would call upon the existing health care financing authority and all private groups such as insurance companies—whether it is an Aetna or a Blue Cross—all of these who want the privilege of serving the Medicare beneficiaries would have to compete for the right to do so. They do not do that today.

We would say to all these people who want to serve Medicare beneficiaries, they have to offer at least as much as what Medicare pays for today, at least as much but hopefully a lot more. We would require every group that wants to sell health insurance to Medicare beneficiaries to have to compete for the right to do so, compete on the price they request seniors to pay, and compete on the quality of service they make available to seniors.

In addition, every one of these plans would have to offer a high option plan which would contain a prescription drug plan. Prescription drugs today are as important as a hospital bed was in 1965, and maybe even more so because prescription drugs keep people out of hospitals. They keep people out of nursing homes. They make their lives better and the quality of their lives better than it would be, were they not getting prescription drugs.

So every one of these single plans would have to offer a high option plan and they would have to make that a prescription drug plan with an actuarial value of at least $800 per year, which would be indexed to the increase of costs of prescription drugs annually.

They would also have a stop-loss guarantee which simply means no senior would ever have to pay more than $2,000 out of their pocket.

We think, in essence, what this plan would do is bring about substantive, real reform to a 1965 model program which simply is not working as we move to the 21st century. We cannot continue to tinker around the edges. We need complete, total reform of the Medicare program. If we do that, then we can start talking about adding other benefits such as prescription drugs, which I think are very important and I strongly support. But you cannot add prescription drugs to a broken program. You have to fundamentally restructure it and reform it; bring about real competition where all these plans will compete for the right to serve.

That is what I have as a Senator. That is what 9 million other Federal employees have. I think we would see substantial savings brought about by companies having to compete for who can offer the best package at the best price. If they want to stay in a current fee-for-service plan offered by Medicare, they can stay right where they are. They don't have to make a change. But if they see one of these other plans offer them a better deal, they should take that better deal.

We hope our colleagues take a look at what we have offered. We think it is where we are ultimately going to end up. My colleagues, Senators KERREY and FRIST, have done a terrific job. We think this is where we should go as a nation.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for up to 5 minutes.

Mr. FRIST. Mr. President, I have joined Senators BREAUX and KERREY here this evening to introduce a bill to comprehensively reform Medicare. The obvious question is, why is it necessary to reform Medicare? The very simple answer is that our seniors need and deserve better health care than what the current Medicare program can provide. The problem facing Medicare today is that, although we are in 1999, we are still relying on an antiquated system based on a 1965 model of health care. Medicare today is an inflexible system, it is an incomplete system, and it is a system that is going bankrupt. The rigidity of Medicare today limits access to new treatments and medical technologies, whether it is transplantation or treatment for hypertension.

The benefit package, in particular, is severely outdated, as evidenced by a lack of outpatient prescription drug coverage. I can tell you as a physician, that in order to deliver quality health care to our seniors, prescription drug coverage is imperative.

Most seniors today do not realize the Federal Government only pays 53 percent, or about half, of their overall health care costs. Our nation's seniors deserve better.

Right now, Medicare is micromanaged by Congress through 130,000 pages of regulations, 4 times the number of pages for the IRS code. Right now there are over 10,000 different prices in 3,000 different counties which are managed by the Health Care Financing Administration and Congress.

With 77 million baby boomers entering the Medicare program in 2010, we can expect a doubling of our eligible Medicare beneficiaries over the next 30 years. Medicare, in it's current form, is not prepared for and cannot endure these immense demographic changes. The program is already due to be insolvent by the year 2015.

This bill incorporates three main concepts. The first is health care security for our seniors. The second is choice, to meet beneficiaries' individual health care needs, as Senator BREAUX just outlined. The third is the establishment of a comprehensive, health care system that offers an integrated set of benefits.

We model this proposal on the Federal Employees Health Benefits Program. As the Senator from Louisiana just said, that is the way we in Congress get our health care. In addition, 9 million others get their health care through the FEHBP model. We have a long history, almost 40 years of experience with this model. All federal employees, including myself and my family, receive a description of benefits and choices, which outlines all the plans available in a geographic area, including the cost and quality of each plan. It is all right here in this booklet. This is what we as Members of Congress have today and it is what our seniors deserve.

This bill guarantees all current Medicare benefits, which is critical in maintaining health care security. Regardless of what plan a beneficiary chooses, HCFA-sponsored or private, all benefits in Medicare are guaranteed in a system based on choice and competition.

For the first time in Medicare, not only are outpatient prescription drugs offered to all beneficiaries, but all Medicare beneficiaries receive a discount for drug benefits. Full coverage is offered for beneficiaries below 135 percent of poverty. For beneficiaries between 135 percent and 150 percent of poverty there will be a discount based on a sliding scale, ranging from 50 percent to 25 percent. For all other beneficiaries who are above 150 percent of poverty, a 25-percent discount is offered.

This bill protects beneficiaries against high out-of-pocket costs. Most seniors do not realize today that if they get sick, there is no limit on what they will pay for care. We, for the first time, through enrollment in a high-option plan, limit out-of-pocket expenditures to $2,000 for core Medicare benefits.

This bill also offers low-income and rural protections. In our legislation, we specifically address the lack of private plans in certain areas, such as rural areas. In these underserved or rural areas, we make sure that affordable health care is available for seniors. We guarantee both the current Medicare benefits and prescription drug benefits.

We include beneficiary outreach and education efforts coordinated at the federal, state and local levels, to ensure timely, accurate, and understandable information, outlining affordable health care options, is available for all Medicare beneficiaries.

In summary, the bill we have introduced today promotes high-quality, comprehensive, integrated health care for our seniors that meets their individual needs. It assists all beneficiaries, especially those with low incomes, in obtaining comprehensive benefits, including prescription drug coverage. It increases the flexibility of the Medicare program to capture innovations in medicine. Whether it is new technologies, new breakthroughs in medicines, or new drugs, it is important seniors have access to these services, something they don't have today. This bill also ends congressional micromanagement. We have been struggling all week with fixes to a Balanced Budget Act from 2 years ago, trying to figure out how to correct the problems we created by micromanaging Medicare on the Senate floor. This just does not make sense. As I said, there are over 130,000 pages of regulations that we are trying to oversee here in Congress. Finally, we adopt a stable, competitive system based on the proven FEHBP model. This bill is based on competition, choice, health care security, and the need for comprehensive and integrated benefits, including prescription drugs.

I urge all of our colleagues to support this legislation as it is a critical focal point and sets the stage for future discussions as we address Medicare reform and modernization.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I join the distinguished Senator from Tennessee and the distinguished Senator from Louisiana in introducing this legislation. I want to emphasize something both Senators emphasized in an earlier press conference, and that is, the goal of this legislation has three parts: No. 1 is security, securing Medicare for beneficiaries today and beneficiaries in the future. It is a terribly important program, and the roughly 40 million Americans who currently benefit from this program need to know the law guarantees their benefits. This proposal actually secures their benefits even more than existing law.

Some people will attack this proposal, but we have been very careful in drafting this legislation to accommodate the beneficiaries' concerns that their benefits under a competitive model might be lower. This legislation says their benefits cannot be less than what is currently available under existing law, and there is, I say to those who are concerned about rural communities, as I know the distinguished occupant of the Chair is, there is a provision in here that says if competition does not bring alternative plans, plans other than the fee-for-service offering of the Health Care Finance Administration, that the cost to the beneficiaries cannot exceed 12 percent of the national weighted average. That would make it very likely that in rural areas there will be no penalty; indeed, it is likely to be they will be paying less than they do under the current law.

The second is that it is comprehensive and it offers comprehensive choice. There is a very important part of this legislation that, almost all by itself, is going to increase the satisfaction of citizens as they examine Medicare. That is, we establish a public board that has significant power not just over HCFA but over the plans that are offered in the marketplace.

Right now, HCFA writes the rules for competing plans; obviously, a conflict of interest. We do not want to decrease the ability of HCFA to offer plans. We have written this so HCFA can offer its fee-for-service plan and be competitive, but we want this board to set the rules and conditions under which competitive plans come into the marketplace, although we have written in the legislation guarantees, as I indicated earlier, to make certain the program is secure.

A public board is much more likely to give the public satisfaction than the current environment. All of us understand it is exceptionally difficult both to evaluate what is right and what is wrong when we are faced with a request from a provider or from a beneficiary, and it is even more difficult to

get HCFA to change its rules mostly on account of HCFA knowing that if it changes a rule, for example, in Nebraska, it is going to be changing rules for all other 49 States as well and could add significant costs to the program. So HCFA ends up being very inflexible, I argue not through any fault of its own but through the fault of the way the law is written.

The second objective of this legislation is that we provide comprehensive choice in a new legal environment, where the citizens will have more opportunity to make their case to a public board and the public board will have much greater expertise in making decisions about how to create a competitive environment that will enable HCFA to compete as well as private sector companies to come on line and offer more choice at lower cost to beneficiaries.

The third thing is we say that a prescription benefit should and must be considered in a comprehensive solution with Medicare reform. We cannot separate it. You cannot take a prescription benefit for a Medicare beneficiary and separate it and create an entirely new program without considering the need for comprehensive change in the program. It is much more likely that we will satisfy concerns of taxpayers that we not end up with a program that has an open-ended cost to it and much more likely, especially with the structural change of the board, that the rules will be written so the marketplace cannot only develop affordable products, but develop creative products that we are apt to see increasingly being asked for by our health care delivery system.

I am very pleased to be a cosponsor of this legislation. I hope we are able to get a markup in the Senate Finance Committee next year. I hope this becomes the basis for bipartisan reform. All too often this is a subject matter that lends itself to demagoging on both sides. Mediscare has become a verb and a form of political art. Hopefully, as a consequence of it beginning in a bipartisan fashion, it will end up in a bipartisan fashion, and the rhetoric will be much more tame and much more honest as well.

SOCIAL SECURITY

Mr. KERREY. Mr. President, I would also like to take a minute to talk about a companion program to Medicare, and that is Social Security.

A Social Security beneficiary will say Social Security and Medicare are in the same program, indeed, in the same act, in the same law. As far as the beneficiary is concerned, one program serves the needs of the other.

The General Accounting Office today released a public report which evaluates five plans that have been presented to the people, five plans that the people should look to and evaluate to answer the question: Is this a plan I support?

Let me list what those plans are. The first plan is the status quo, what I call in a nonpejorative fashion the do-nothing plan; the do-nothing plan calls for maintaining current law, waiting until manana, and fixing the program 10 years, 20 years from now. GAO evaluates the do-nothing plan, which, by the way, has 500 cosponsors at the moment in the House and the Senate. The GAO evaluated the plan that Senator GREGG, myself, Senator GRASSLEY, Senator BREAUX, and three others in the Senate have introduced. The bill number is S. 1383. The House companion bill to S. 1383 is H.R. 1793, a companion bill which has nine cosponsors. The GAO evaluated that bill as well.

The GAO also evaluated S. 1831. That is the President's reform plan. It has been introduced in the Senate. The GAO also evaluated the Archer-Shaw proposal, though Chairman ARCHER and Representative SHAW have yet to introduce their reform plan in the form of a bill. They evaluated the details of the Archer-Shaw proposal that were provided to them. And finally, GAO evaluated Representative KASICH's proposal. I do not know what its number is or how many people are on it, but it is a specific piece of legislation that has been introduced.

The GAO has done a very useful service, in my view, for a couple of reasons.

Reason No. 1 is that GAO finally identifies the status quo as a plan. In other words, you cannot not be for something. If you are not on a bill, you are supporting the status quo, you are supporting existing law. There are serious consequences to supporting existing law.

The GAO evaluated all five of these plans.

Secondly, GAO outlined for the first time the eight financial and budgetary criteria by which these five proposals ought to be judged by the American public. In the report, they ask:

First, does it reduce pressure of Social Security spending on the budget?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KERREY. How much time did I have?

The PRESIDING OFFICER. The Senator had 5 minutes under a unanimous consent agreement to proceed.

Mr. KERREY. I ask unanimous consent that I be given 2 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERREY. Mr. President, there were eight other questions on the financial side.

Question No. 2: Does it reduce the national debt?

Question No. 3: Does it reduce the cost of Social Security as a percent of GDP?

Question No. 4: Does it increase national savings?

Question 5: Does it solve the 75-year actuarial solvency problem? In other words, can it keep the promise to all 270 million beneficiaries both eligible today and out into the future?

Question No. 6: Does it create new, undisclosed contingent liabilities?

Question No. 7: Does it increase payroll taxes or place an obligation on general revenues?

And question No. 8: Are there safety valves to accommodate future growth in the program?

These are the key financial questions. The GAO has laid out an evaluation of the five dominant plans that have been offered by Members of Congress to the public.

In addition, GAO attempts to do an analysis of the administration and implementation issues in each plan.

Finally, GAO attempts to evaluate whether or not equity—generational equity—and progressivity have been taken into account in each plan. Equity and progressivity are always important. Social Security is a very progressive program to beneficiaries.

I hope that this GAO report gets a little bit of air time and a little bit of consideration by Members. I hope that particular attention will be paid to the do-nothing, status quo plan.

There are consequences to the do-nothing plan. The current status quo plan dramatically increases debt and interest costs in the future. This large debt will have a major impact on the tax burdens and interest rates of future workers. GAO comments very unfavorably when it measures the status quo approach against its eight financial criteria. There are very negative consequences for both current beneficiaries and future beneficiaries and the American taxpayers for doing nothing.

I urge my colleagues to take a closer look at this GAO report—and to really understand the cost tradeoffs between different approaches to Social Security reform. The battle cry all year long has been to save Social Security first. We created an elaborate lockbox mechanism so we could do it. My hope is that next year, with the assistance of GAO and this report, we will see an increasing number of Members who are enthusiastic about putting their names on specific legislation to reform Social Security.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

UNANIMOUS-CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. GRASSLEY. Mr. President, as in executive session, I ask unanimous consent that on Wednesday, following the vote in relation to the drug amendment to the bankruptcy bill, the Senate proceed to executive session for the consideration of calendar Nos. 399 to 400, the nomination of Carol Moseley-Braun to be ambassador to New Zealand and Samoa. I further ask unanimous consent that the Senate then immediately proceed to a vote on the confirmation of the nomination and, following the vote, the President then immediately be notified of the Senate's

action, and the Senate then proceed to the nomination of Linda Morgan and, following that confirmation vote, the President be immediately notified and the Senate then resume executive session.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. GRASSLEY. I announce for the leader that in light of this agreement, there will be three rollcall votes between noon and 1:00 p.m. tomorrow.

BANKRUPTCY REFORM ACT OF 1999—Continued

Mr. GRASSLEY. Mr. President, we can proceed, then, to our adoption of some amendments on which we have agreement.

The PRESIDING OFFICER. The Senator from Iowa.

AMENDMENTS NOS. 1722, AS MODIFIED; 2530, AS MODIFIED; 2546; 2749; 2750; 2758, AS MODIFIED; 2768; 2772, AS MODIFIED; 2528; 2664; AND 2665, EN BLOC

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the following amendments be considered en bloc, and modifications be considered agreed to, where noted, that the amendments be agreed to, en bloc, and the motions to reconsider be laid upon the table, all without intervening action or debate.

I will give you the amendment Nos.: Amendment No. 1722 by Mr. ROBB, as modified; amendment No. 2530 by Mr. BYRD, as modified; amendment No. 2546 by Mr. BENNETT; amendment No. 2749 by Mr. FEINGOLD dealing with PACs; amendment No. 2750 by Mr. FEINGOLD dealing with FEC fine; amendment No. 2758 by Mr, ROTH and Mr. MOYNIHAN, as modified—I will send that modification to the desk—amendment No. 2768 by Mr. LEVIN; amendment No. 2772 by Mr. LEVIN, as modified—that modification will be sent to the desk—amendment No. 2528 by Mr. LEAHY; amendment No. 2664 by Mr. KOHL; and amendment No. 2665 by Mr. KOHL. I send the modifications to the desk.

Mr. LEAHY. Mr. President, if the Senator will yield, the last two are by the distinguished Senator from Wisconsin, Mr. KOHL; is that right?

Mr. GRASSLEY. Yes.

Mr. LEAHY. Of course, I have no objection.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

The amendments (Nos. 1722, as modified; 2530, as modified; 2546; 2749; 2750; 2758, as modified; 2768; 2772, as modified; 2528; 2664; and 2665) were agreed to as follows:

AMENDMENT NO. 1722, AS MODIFIED

(Purpose: To provide that duties of a trustee shall include providing certain information relating to case administration, and for other purposes)

On page 51, strike line 24 and insert the following:

section (d); and

''(7) provide information relating to the administration of cases that is practical to any not-for-profit entity which shall provide information to parties in interest in a timely and convenient manner, including telephonic and Internet access, at no cost or a nominal cost.

An entity described in paragraph (7) shall provide parties in interest with reasonable information about each case on behalf of the trustee of that case, including the status of the debtor's payments to the plan, the unpaid balance payable to each creditor treated by the plan, and the amount and date of payments made under the plan. The trustee shall have no duty to provide information under paragraph (7) if no such entity has been established.''; and

AMENDMENT 2530, AS MODIFIED

(Purpose: To make an amendment with respect to credit card applications and solicitations that are electronically provided to consumers)

At the appropriate place, insert the following:

SEC. ___. PROVISION OF ELECTRONIC FTC PAMPHLET WITH ELECTRONIC CREDIT CARD APPLICATIONS AND SOLICITATIONS.

Section 127(c) of the Truth in Lending Act (15 U.S.C. 1637(c)) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following:

''(5) INCLUSION OF FEDERAL TRADE COMMISSION PAMPHLET.—

''(A) IN GENERAL.—Any application to open a credit card account for any person under an open end consumer credit plan, or a solicitation or an advertisement to open such an account without requiring an application, that is electronically transmitted to or accessed by a consumer shall be accompanied by an electronic version (or an electronic link thereto) of the pamphlet published by the Federal Trade Commission relating to choosing and using credit cards.

''(B) COSTS.—The card issuer with respect to an account described in subparagraph (A) shall be responsible for all costs associated with compliance with that subparagraph.''.

AMENDMENT NO. 2546

(Purpose: To amend certain banking and securities laws with respect to financial contracts)

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

AMENDMENT NO. 2749

(Purpose: To clarify the bankruptcy jurisdiction over insolvent political committees)

At the appropriate place, insert the following:

SEC. ___. NO BANKRUPTCY FOR INSOLVENT POLITICAL COMMITTEES.

Section 105 of title 11, United States Code, is amended by inserting at the end the following:

''(e) A political committee subject to the jurisdiction of the Federal Election Commission under Federal election laws may not file for bankruptcy under this title.''.

AMENDMENT NO. 2750

(Purpose: To make fines and penalties imposed under Federal election law nondischargeable)

At the appropriate place, insert the following:

SEC. ___. FEDERAL ELECTION LAW FINES AND PENALTIES AS NONDISCHARGEABLE DEBT.

Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14A) the following:

''(14B) fines or penalties imposed under Federal election law;''.

AMENDMENT NO. 2758, AS MODIFIED

(Purpose: To provide for tax-related bankruptcy provisions)

Beginning on page 181, strike line 20 and all that follows through page 203, line 17, and insert the following:

TITLE VII—BANKRUPTCY TAX PROVISIONS

SEC. 701. TREATMENT OF CERTAIN LIENS.

(a) TREATMENT OF CERTAIN LIENS.—Section 724 of title 11, United States Code, is amended—

(1) in subsection (b), in the matter preceding paragraph (1), by inserting ''(other than to the extent that there is a properly perfected unavoidable tax lien arising in connection with an ad valorem tax on real or personal property of the estate)'' after ''under this title'';

(2) in subsection (b)(2), by inserting ''(except that such expenses, other than claims for wages, salaries, or commissions which arise after the filing of a petition, shall be limited to expenses incurred under chapter 7 of this title and shall not include expenses incurred under chapter 11 of this title)'' after ''507(a)(1)''; and

(3) by adding at the end the following:

''(e) Before subordinating a tax lien on real or personal property of the estate, the trustee shall—

''(1) exhaust the unencumbered assets of the estate; and

''(2) in a manner consistent with section 506(c), recover from property securing an allowed secured claim the reasonable, necessary costs and expenses of preserving or disposing of that property.

''(f) Notwithstanding the exclusion of ad valorem tax liens under this section and subject to the requirements of subsection (e), the following may be paid from property of the estate which secures a tax lien, or the proceeds of such property:

''(1) Claims for wages, salaries, and commissions that are entitled to priority under section 507(a)(4).

''(2) Claims for contributions to an employee benefit plan entitled to priority under section 507(a)(5).''.

(b) DETERMINATION OF TAX LIABILITY.—Section 505(a)(2) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(C) the amount or legality of any amount arising in connection with an ad valorem tax on real or personal property of the estate, if the applicable period for contesting or redetermining that amount under any law (other than a bankruptcy law) has expired.''.

SEC. 702. TREATMENT OF FUEL TAX CLAIMS.

Section 501 of title 11, United States Code, is amended by adding at the end the following:

''(e) A claim arising from the liability of a debtor for fuel use tax assessed consistent with the requirements of section 31705 of title 49 may be filed by the base jurisdiction designated pursuant to the International Fuel Tax Agreement and, if so filed, shall be allowed as a single claim.''.

SEC. 703. NOTICE OF REQUEST FOR A DETERMINATION OF TAXES.

Section 505(b) of title 11, United States Code, is amended—

(1) in the first sentence, by inserting ''at the address and in the manner designated in paragraph (1)'' after ''determination of such tax'';

(2) by striking ''(1) upon payment'' and inserting ''(2)(A) upon payment'';

(3) by striking ''(A) such governmental unit'' and inserting ''(i) such governmental unit'';

(4) by striking ''(B) such governmental unit'' and inserting ''(ii) such governmental unit'';

(5) by striking ''(2) upon payment'' and inserting ''(B) upon payment'';

(6) by striking ''(3) upon payment'' and inserting ''(C) upon payment'';

(7) by striking ''(b)'' and inserting ''(2)''; and

(8) by inserting before paragraph (2), as so designated, the following:

''(b)(1)(A) The clerk of each district shall maintain a listing under which a Federal, State, or local governmental unit responsible for the collection of taxes within the district may—

''(i) designate an address for service of requests under this subsection; and

''(ii) describe where further information concerning additional requirements for filing such requests may be found.

''(B) If a governmental unit referred to in subparagraph (A) does not designate an address and provide that address to the clerk under that subparagraph, any request made under this subsection may be served at the address for the filing of a tax return or protest with the appropriate taxing authority of that governmental unit.''.

SEC. 704. RATE OF INTEREST ON TAX CLAIMS.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 11, United States Code, is amended by adding at the end the following:

''§ 511. Rate of interest on tax claims

''(a) If any provision of this title requires the payment of interest on a tax claim or the payment of interest to enable a creditor to receive the present value of the allowed amount of a tax claim, the rate of interest shall be the rate shall be determined under applicable nonbankruptcy law.

''(b) In the case of taxes paid under a confirmed plan under this title, the rate of interest shall be determined as of the calendar month in which the plan is confirmed.''.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 510 the following:

''511. Rate of interest on tax claims.''.

SEC. 705. PRIORITY OF TAX CLAIMS.

Section 507(a)(8) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by inserting ''for a taxable year ending on or before the date of filing of the petition'' after ''gross receipts'';

(B) in clause (i)—

(i) by striking ''for a taxable year ending on or before the date of filing of the petition''; and

(ii) by inserting before the semicolon at the end, the following: '', plus any time during which the stay of proceedings was in effect in a prior case under this title or during which collection was precluded by the existence of 1 or more confirmed plans under this title, plus 90 days''; and

(C) by striking clause (ii) and inserting the following:

''(ii) assessed within 240 days before the date of the filing of the petition, exclusive of—

''(I) any time during which an offer in compromise with respect to that tax was pending or in effect during that 240-day period, plus 30 days; and

''(II) any time during which a stay of proceedings against collections was in effect in a prior case under this title during that 240-day period; plus 90 days.''; and

(2) by adding at the end the following:

''(H) An otherwise applicable time period specified in this paragraph shall be suspended for—

''(i) any period during which a governmental unit is prohibited under applicable nonbankruptcy law from collecting a tax as a result of a request by the debtor for a hearing and an appeal of any collection action taken or proposed against the debtor; plus

''(ii) 90 days.''.

SEC. 706. PRIORITY PROPERTY TAXES INCURRED.

Section 507(a)(9)(B) of title 11, United States Code, is amended by striking ''assessed'' and inserting ''incurred''.

SEC. 707. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 13.

Section 1328(a)(2) of title 11, United States Code, as amended by sections 105, 213, and 314 of this Act, is amended—

(1) by inserting ''(1)(B), (1)(C),'' after ''paragraph''; and

(2) by inserting ''and in section 507(a)(8)(C)'' after ''section 523(a)''.

SEC. 708. NO DISCHARGE OF FRAUDULENT TAXES IN CHAPTER 11.

Section 1141(d) of title 11, United States Code, is amended by adding at the end the following:

''(5) Notwithstanding paragraph (1), the confirmation of a plan does not discharge a debtor that is a corporation from any debt for a tax or customs duty with respect to which the debtor—

''(A) made a fraudulent return; or

''(B) willfully attempted in any manner to evade or defeat that tax or duty.''.

SEC. 709. STAY OF TAX PROCEEDINGS LIMITED TO PREPETITION TAXES.

Section 362(a)(8) of title 11, United States Code, is amended by inserting '', with respect to a tax liability for a taxable period ending before the order for relief under this title'' before the semicolon at the end.

SEC. 710. PERIODIC PAYMENT OF TAXES IN CHAPTER 11 CASES.

Section 1129(a)(9) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by striking ''deferred cash payments, over a period not exceeding six years after the date of assessment of such claim,'' and all that follows through the end of the subparagraph, and inserting ''regular installment payments in cash—

''(i) of a total value, as of the effective date of the plan, equal to the allowed amount of such claim;

''(ii) with interest thereon calculated at the rate provided in section 6621(a)(2) of the Internal Revenue Code of 1986;

''(iii) over a period ending not later than 5 years after the date of the entry of the order for relief under section 301, 302, or 303; and

''(iv) in a manner not less favorable than the most favored nonpriority unsecured claim provided for in the plan (other than cash payments made to a class of creditors under section 1122(b)); and''; and

(3) by adding at the end the following:

''(D) with respect to a secured claim which would otherwise meet the description of an unsecured claim of a governmental unit under section 507(a)(8), but for the secured status of that claim, the holder of that claim will receive on account of that claim, cash payments, in the same manner and over the same period, as prescribed in subparagraph (C).''.

SEC. 711. AVOIDANCE OF STATUTORY TAX LIENS PROHIBITED.

Section 545(2) of title 11, United States Code, is amended by striking the semicolon at the end and inserting '', except in any case in which a purchaser is a purchaser described in section 6323 of the Internal Revenue Code of 1986, or in any other similar provision of State or local law;''.

SEC. 712. PAYMENT OF TAXES IN THE CONDUCT OF BUSINESS.

(a) PAYMENT OF TAXES REQUIRED.—Section 960 of title 28, United States Code, is amended—

(1) by inserting ''(a)'' before ''Any''; and

(2) by adding at the end the following:

''(b) A tax under subsection (a) shall be paid on or before the due date of the tax under applicable nonbankruptcy law, unless—

''(1) the tax is a property tax secured by a lien against property that is abandoned within a reasonable period of time after the lien attaches by the trustee of a bankruptcy estate under section 554 of title 11; or

''(2) payment of the tax is excused under a specific provision of title 11.

''(c) In a case pending under chapter 7 of title 11, payment of a tax may be deferred until final distribution is made under section 726 of title 11, if—

''(1) the tax was not incurred by a trustee duly appointed under chapter 7 of title 11; or

''(2) before the due date of the tax, an order of the court makes a finding of probable insufficiency of funds of the estate to pay in full the administrative expenses allowed under section 503(b) of title 11 that have the same priority in distribution under section 726(b) of title 11 as the priority of that tax.''.

(b) PAYMENT OF AD VALOREM TAXES REQUIRED.—Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by inserting ''whether secured or unsecured, including property taxes for which liability is in rem, in personam, or both,'' before ''except''.

(c) REQUEST FOR PAYMENT OF ADMINISTRATIVE EXPENSE TAXES ELIMINATED.—Section 503(b)(1) of title 11, United States Code, is amended—

(1) in subparagraph (B), by striking ''and'' at the end;

(2) in subparagraph (C), by adding ''and'' at the end; and

(3) by adding at the end the following:

''(D) notwithstanding the requirements of subsection (a), a governmental unit shall not be required to file a request for the payment of an expense described in subparagraph (B) or (C), as a condition of its being an allowed administrative expense;''.

(d) PAYMENT OF TAXES AND FEES AS SECURED CLAIMS.—Section 506 of title 11, United States Code, is amended—

(1) in subsection (b), by inserting ''or State statute'' after ''agreement''; and

(2) in subsection (c), by inserting '', including the payment of all ad valorem property taxes with respect to the property'' before the period at the end.

SEC. 713. TARDILY FILED PRIORITY TAX CLAIMS.

Section 726(a)(1) of title 11, United States Code, is amended by striking ''before the date on which the trustee commences distribution under this section;'' and inserting the following: ''on or before the earlier of—

''(A) the date that is 10 days after the mailing to creditors of the summary of the trustee's final report; or

''(B) the date on which the trustee commences final distribution under this section;''.

SEC. 714. INCOME TAX RETURNS PREPARED BY TAX AUTHORITIES.

Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (1)(B)—

(A) in the matter preceding clause (i), by inserting ''or equivalent report or notice,'' after ''a return,'';

(B) in clause (i)—

(i) by inserting ''or given'' after ''filed''; and

(ii) by striking ''or'' at the end; and

(C) in clause (ii)—

(i) by inserting ''or given'' after ''filed''; and

(ii) by inserting '', report, or notice'' after ''return''; and

(2) by adding at the end the following flush sentences:

''For purposes of this subsection, the term 'return' means a return that satisfies the requirements of applicable nonbankruptcy law (including applicable filing requirements). Such term includes a return prepared pursuant to section 6020(a) of the Internal Revenue Code of 1986, or similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal, but does not include a return made pursuant to section 6020(b) of the Internal Revenue Code of 1986, or a similar State or local law.''.

SEC. 715. DISCHARGE OF THE ESTATE'S LIABILITY FOR UNPAID TAXES.

The second sentence of section 505(b) of title 11, United States Code, as amended by section 703 of this Act, is amended by inserting ''the estate,'' after ''misrepresentation,''.

SEC. 716. REQUIREMENT TO FILE TAX RETURNS TO CONFIRM CHAPTER 13 PLANS.

(a) FILING OF PREPETITION TAX RETURNS REQUIRED FOR PLAN CONFIRMATION.—Section 1325(a) of title 11, United States Code, as amended by section 213 of this Act, is amended—

(1) in paragraph (6), by striking ''and'' at the end;

(2) in paragraph (7), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (7) the following:

''(8) if the debtor has filed all applicable Federal, State, and local tax returns as required by section 1308.''.

(b) ADDITIONAL TIME PERMITTED FOR FILING TAX RETURNS.—

(1) IN GENERAL.—Chapter 13 of title 11, United States Code, is amended by adding at the end the following:

''§ 1308. Filing of prepetition tax returns

''(a) Not later than the day before the date on which the meeting of the creditors is first scheduled to be held under section 341(a), the debtor shall file with appropriate tax authorities all tax returns for all taxable periods ending during the 4-year period ending on the date of the filing of the petition.

''(b)(1) Subject to paragraph (2), if the tax returns required by subsection (a) have not been filed by the date on which the meeting of creditors is first scheduled to be held under section 341(a), the trustee may hold open that meeting for a reasonable period of time to allow the debtor an additional period of time to file any unfiled returns, but such additional period of time shall not extend beyond—

''(A) for any return that is past due as of the date of the filing of the petition, the date that is 120 days after the date of that meeting; or

''(B) for any return that is not past due as of the date of the filing of the petition, the later of—

''(i) the date that is 120 days after the date of that meeting; or

''(ii) the date on which the return is due under the last automatic extension of time for filing that return to which the debtor is entitled, and for which request is timely made, in accordance with applicable nonbankruptcy law.

''(2) Upon notice and hearing, and order entered before the tolling of any applicable filing period determined under this subsection, if the debtor demonstrates by clear and convincing evidence that the failure to file a return as required under this subsection is attributable to circumstances beyond the control of the debtor, the court may extend the filing period established by the trustee under this subsection for—

''(A) a period of not more than 30 days for returns described in paragraph (1); and

''(B) a period not to extend after the applicable extended due date for a return described in paragraph (2).

''(c) For purposes of this section, the term 'return' includes a return prepared pursuant to section 6020 (a) or (b) of the Internal Revenue Code of 1986, or a similar State or local law, or a written stipulation to a judgment or a final order entered by a nonbankruptcy tribunal.''.

(2) CONFORMING AMENDMENT.—The table of sections for chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

''1308. Filing of prepetition tax returns.''.

(c) DISMISSAL OR CONVERSION ON FAILURE TO COMPLY.—Section 1307 of title 11, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d), the following:

''(e) Upon the failure of the debtor to file a tax return under section 1308, on request of a party in interest or the United States trustee and after notice and a hearing, the court shall dismiss a case or convert a case under this chapter to a case under chapter 7 of this title, whichever is in the best interest of the creditors and the estate.''.

(d) TIMELY FILED CLAIMS.—Section 502(b)(9) of title 11, United States Code, is amended by inserting before the period at the end the following '', and except that in a case under chapter 13, a claim of a governmental unit for a tax with respect to a return filed under section 1308 shall be timely if the claim is filed on or before the date that is 60 days after the date on which such return was filed as required''.

(e) RULES FOR OBJECTIONS TO CLAIMS AND TO CONFIRMATION.—It is the sense of Congress that the Advisory Committee on Bankruptcy Rules of the Judicial Conference should, as soon as practicable after the date of enactment of this Act, propose for adoption amended Federal Rules of Bankruptcy Procedure which provide that—

(1) notwithstanding the provisions of Rule 3015(f), in cases under chapter 13 of title 11, United States Code, an objection to the confirmation of a plan filed by a governmental unit on or before the date that is 60 days after the date on which the debtor files all tax returns required under sections 1308 and 1325(a)(7) of title 11, United States Code, shall be treated for all purposes as if such objection had been timely filed before such confirmation; and

(2) in addition to the provisions of Rule 3007, in a case under chapter 13 of title 11, United States Code, no objection to a tax with respect to which a return is required to be filed under section 1308 of title 11, United States Code, shall be filed until such return has been filed as required.

SEC. 717. STANDARDS FOR TAX DISCLOSURE.

Section 1125(a)(1) of title 11, United States Code, is amended—

(1) by inserting ''including a discussion of the potential material Federal tax consequences of the plan to the debtor, any successor to the debtor, and a hypothetical investor typical of the holders of claims or interests in the case,'' after ''records''; and

(2) by striking ''a hypothetical reasonable investor typical of holders of claims or interests'' and inserting ''such a hypothetical investor''.

SEC. 718. SETOFF OF TAX REFUNDS.

Section 362(b) of title 11, United States Code, as amended by section 402 of this Act, is amended—

(1) in paragraph (25), by striking ''or'' at the end;

(2) in paragraph (26), by striking the period at the end and inserting ''; or''; and

(3) by inserting after paragraph (26) the following:

''(27) under subsection (a), of the setoff under applicable nonbankruptcy law of an income tax refund, by a governmental unit, with respect to a taxable period that ended before the order for relief against an income tax liability for a taxable period that also ended before the order for relief, except that in any case in which the setoff of an income tax refund is not permitted under applicable nonbankruptcy law because of a pending action to determine the amount or legality of a tax liability, the governmental unit may hold the refund pending the resolution of the action, unless the court, upon motion of the trustee and after notice and hearing, grants the taxing authority adequate protection (within the meaning of section 361) for the secured claim of that authority in the setoff under section 506(a).''.

SEC. 719. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

(a) IN GENERAL.—Section 346 of title 11, United States Code, is amended to read as follows:

''SEC. 346. SPECIAL PROVISIONS RELATED TO THE TREATMENT OF STATE AND LOCAL TAXES.

''(a) Whenever the Internal Revenue Code of 1986 provides that a separate taxable estate or entity is created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of such estate shall be taxed to or claimed by the estate, a separate taxable estate is also created for purposes of any State and local law imposing a tax on or measured by income and such income, gain, loss, deductions, and credits shall be taxed to or claimed by the estate and may not be taxed to or claimed by the debtor. The preceding sentence shall not apply if the case is dismissed. The trustee shall make tax returns of income required under any such State or local law.

''(b) Whenever the Internal Revenue Code of 1986 provides that no separate taxable estate shall be created in a case concerning a debtor under this title, and the income, gain, loss, deductions, and credits of an estate shall be taxed to or claimed by the debtor, such income, gain, loss, deductions, and credits shall be taxed to or claimed by the debtor under a State or local law imposing a tax on or measured by income and may not be taxed to or claimed by the estate. The trustee shall make such tax returns of income of corporations and of partnerships as are required under any State or local law, but with respect to partnerships, shall make said returns only to the extent such returns are also required to be made under such Code. The estate shall be liable for any tax imposed on such corporation or partnership, but not for any tax imposed on partners or members.

''(c) With respect to a partnership or any entity treated as a partnership under a State or local law imposing a tax on or measured by income that is a debtor in a case under this title, any gain or loss resulting from a distribution of property from such partnership, or any distributive share of any income, gain, loss, deduction, or credit of a partner or member that is distributed, or considered distributed, from such partnership, after the commencement of the case, is gain, loss, income, deduction, or credit, as the case may be, of the partner or member,

and if such partner or member is a debtor in a case under this title, shall be subject to tax in accordance with subsection (a) or (b).

''(d) For purposes of any State or local law imposing a tax on or measured by income, the taxable period of a debtor in a case under this title shall terminate only if and to the extent that the taxable period of such debtor terminates under the Internal Revenue Code of 1986.

''(e) The estate in any case described in subsection (a) shall use the same accounting method as the debtor used immediately before the commencement of the case, if such method of accounting complies with applicable nonbankruptcy tax law.

''(f) For purposes of any State or local law imposing a tax on or measured by income, a transfer of property from the debtor to the estate or from the estate to the debtor shall not be treated as a disposition for purposes of any provision assigning tax consequences to a disposition, except to the extent that such transfer is treated as a disposition under the Internal Revenue Code of 1986.

''(g) Whenever a tax is imposed pursuant to a State or local law imposing a tax on or measured by income pursuant to subsection (a) or (b), such tax shall be imposed at rates generally applicable to the same types of entities under such State or local law.

''(h) The trustee shall withhold from any payment of claims for wages, salaries, commissions, dividends, interest, or other payments, or collect, any amount required to be withheld or collected under applicable State or local tax law, and shall pay such withheld or collected amount to the appropriate governmental unit at the time and in the manner required by such tax law, and with the same priority as the claim from which such amount was withheld or collected was paid.

''(i)(1) To the extent that any State or local law imposing a tax on or measured by income provides for the carryover of any tax attribute from one taxable period to a subsequent taxable period, the estate shall succeed to such tax attribute in any case in which such estate is subject to tax under subsection (a).

''(2) After such a case is closed or dismissed, the debtor shall succeed to any tax attribute to which the estate succeeded under paragraph (1) to the extent consistent with the Internal Revenue Code of 1986.

''(3) The estate may carry back any loss or tax attribute to a taxable period of the debtor that ended before the order for relief under this title to the extent that—

''(A) applicable State or local tax law provides for a carryback in the case of the debtor; and

''(B) the same or a similar tax attribute may be carried back by the estate to such a taxable period of the debtor under the Internal Revenue Code of 1986.

''(j)(1) For purposes of any State or local law imposing a tax on or measured by income, income is not realized by the estate, the debtor, or a successor to the debtor by reason of discharge of indebtedness in a case under this title, except to the extent, if any, that such income is subject to tax under the Internal Revenue Code of 1986.

''(2) Whenever the Internal Revenue Code of 1986 provides that the amount excluded from gross income in respect of the discharge of indebtedness in a case under this title shall be applied to reduce the tax attributes of the debtor or the estate, a similar reduction shall be made under any State or local law imposing a tax on or measured by income to the extent such State or local law recognizes such attributes. Such State or local law may also provide for the reduction of other attributes to the extent that the full amount of income from the discharge of indebtedness has not been applied.

''(k)(1) Except as provided in this section and section 505, the time and manner of filing tax returns and the items of income, gain, loss, deduction, and credit of any taxpayer shall be determined under applicable nonbankruptcy law.

''(2) For Federal tax purposes, the provisions of this section are subject to the Internal Revenue Code of 1986 and other applicable Federal nonbankruptcy law.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 728 of title 11, United States Code, is repealed.

(2) Section 1146 of title 11, United States Code, is amended by striking subsections (a) and (b) and by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

(3) Section 1231 of title 11, United States Code, is amended by striking subsections (a) and (b) and by redesignating subsections (c) and (d) as subsections (a) and (b), respectively.

SEC. 720. DISMISSAL FOR FAILURE TO TIMELY FILE TAX RETURNS.

Section 521 of title 11, United States Code, as amended by this Act, is amended by adding at the end the following:

''(k)(1) Notwithstanding any other provision of this title, if the debtor fails to file a tax return that becomes due after the commencement of the case or to properly obtain an extension of the due date for filing such return, the taxing authority may request that the court enter an order converting or dismissing the case.

''(2) If the debtor does not file the required return or obtain the extension referred to in paragraph (1) within 90 days after a request is filed by the taxing authority under that paragraph, the court shall convert or dismiss the case, whichever is in the best interests of creditors and the estate.''.

On page 268, line 13, strike ''1231(d)'' and insert ''1231(b)''.

On page 280, strike lines 16 through 19.

AMENDMENT NO. 2768

(Purpose: To prohibit certain retroactive finance charges)

At the appropriate place, insert the following:

SEC. ___. PROHIBITION ON CERTAIN RETROACTIVE FINANCE CHARGES.

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 RETROACTIVE FINANCE CHARGES.—

''(1) IN GENERAL.—In the case of any credit card account under an open end credit plan, if the creditor provides a grace period applicable to any new extension of credit under the account, no finance charge may be imposed subsequent to the grace period with regard to any amount that was paid on or before the end of that grace period.

''(2) DEFINITION.—For purposes of this subsection, the term 'grace period' means a period during which the extension of credit may be repaid, in whole or in part, without incurring a finance charge for the extension of credit.''.

AMENDMENT NO. 2772, AS MODIFIED

(Purpose: To express the sense of the Senate concerning credit worthiness)

At the appropriate place, insert the following:

The Board of Governors of the Federal Reserve shall report to the Banking Committee of Congress within 6 months of enactment of this act as to whether and how the location of the residence of an applicant for a credit cared is considered by financial institutions in deciding whether an applicant should be granted such credit card.

AMENDMENT NO. 2528

(Purpose: To ensure additional expenses and income adjustments associated with protection of the debtor and the debtor's family from domestic violence are included in the debtor's monthly expenses)

On page 7, line 22, insert after the period the following:

''In addition, the debtor's monthly expenses shall include the debtor's reasonably necessary expenses incurred to maintain the safety of the debtor and the family of the debtor from family violence as identified under section 309 of the Family Violence Prevention and Services Act (42 U.S.C. 10408), or other applicable Federal law. The expenses included in the debtor's monthly expenses described in the preceding sentence shall be kept confidential by the court.''

AMENDMENT NO. 2664

(Purpose: To exclude employee benefit plan participant contributions and other property from the estate)

On page 124, insert between lines 14 and 15 the following:

SEC. 322. EXCLUDING EMPLOYEE BENEFIT PLAN PARTICIPANT CONTRIBUTIONS AND OTHER PROPERTY FROM THE ESTATE.

(a) IN GENERAL.—Section 541(b) of title 11, United States Code, as amended by section 903 of this Act, is amended—

(1) by striking ''or'' at the end of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

''(6) any amount—

''(A) withheld by an employer from the wages of employees for payment as contributions to—

''(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.); or

''(ii) a health insurance plan regulated by State law whether or not subject to such title; or

''(B) received by the employer from employees for payment as contributions to—

''(i) an employee benefit plan subject to title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.); or

''(ii) a health insurance plan regulated by State law whether or not subject to such title;''.

(b) APPLICATION OF AMENDMENT.—The amendment made by this section shall not apply to cases commenced under title 11, United States Code, before the expiration of the 180-day period beginning on the date of the enactment of this Act.

AMENDMENT NO. 2665

(Purpose: To clarify the allowance of certain postpetition wages and benefits)

On page 124, insert between lines 14 and 15 the following:

SEC. 322. CLARIFICATION OF POSTPETITION WAGES AND BENEFITS.

Section 503(b)(1)(A) of title 11, United States Code, is amended to read as follows:

''(A) the actual, necessary costs and expenses of preserving the estate, including wages, salaries, or commissions for services rendered after the commencement of the case, and wages and benefits awarded as back pay attributable to any period of time after commencement of the case as a result of the debtor's violation of Federal or State law, without regard to when the original unlawful act occurred or to whether any services were rendered;''.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. I compliment the distinguished Senator from Iowa. He and I and the distinguished Senator from Utah, Mr. HATCH, and the distinguished Senator from New Jersey, Mr. TORRICELLI, have been working to clear amendments throughout the day.

Earlier today we cleared—what?—12, I believe, on this. We just cleared another large number. I mention this because Senators are coming to the floor offering amendments and clearing them. I commend those Senators who have been moving forward.

I also thank the distinguished senior Senator from Connecticut who has withheld his own debate so we could do this.

I thank him for that and yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 2532, AS MODIFIED

(Purpose: To provide for greater protection of children, and for other purposes)

Mr. DODD. Mr. President, I call up amendment No. 2532 and ask unanimous consent for its consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DODD. Mr. President, I send a modification to the desk to that amendment.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

Mr. DODD. Mr. President, for those who are interested in following the amendment process, the modification is purely technical in nature to what I earlier offered. So it is just technical corrections.

Mr. President, I am going to use some charts on this. I call up this amendment, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Ms. LANDRIEU, and Mr. KENNEDY, proposes an amendment numbered 2532, as modified.

Mr. DODD. Mr. President, I ask unanimous consent further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 7, line 15, strike ''(ii)'' and insert ''(ii)(I)''.

On page 7, between lines 21 and 22, insert the following:

''(II) The expenses referred to in subclause (I) shall include—

''(aa) taxes and mandatory withholdings from wages;

''(bb) health care;

''(cc) alimony, child, and spousal support payments;

''(dd) expenses associated with the adoption of a child, including travel expenses, relocation expenses, and medical expenses;

''(ee) legal fees necessary for the debtor's case;

''(ff) child care and the care of elderly or disabled family members;

''(gg) reasonable insurance expenses and pension payments;

''(hh) religious and charitable contributions;

''(ii) educational expenses not to exceed $10,000 per household;

''(jj) union dues;

''(kk) other expenses necessary for the operation of a business of the debtor or for the debtor's employment;

''(*ll*) utility expenses and home maintenance expenses for a debtor that owns a home;

''(mm) ownership costs for a motor vehicle, determined in accordance with Internal Revenue Service transportation standards, reduced by any payments on debts secured by the motor vehicle or vehicle lease payments made by the debtor;

''(nn) expenses for children's toys and recreation for children of the debtor;

''(oo) tax credits for earned income determined under section 32 of the Internal Revenue Code of 1986; and

''(pp) miscellaneous and emergency expenses.

On page 83, between lines 4 and 5, insert the following:

SEC. 225. TREATMENT OF TAX REFUNDS AND DOMESTIC SUPPORT OBLIGATIONS.

(a) PROPERTY OF THE ESTATE.—Section 541 of title 11, United States Code, is amended—

(1) in subsection (a)(5)(B) by inserting ''except as provided under subsection (b)(7),'' before ''as a result''; and

(2) in subsection (b)—

(A) in paragraph (4), by striking ''or'' at the end;

(B) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(C) by inserting after paragraph (5) the following:

''(6) any—

''(A) refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed under section 32 of such Code for such year; and

''(B) advance payment of an earned income tax credit under section 3507 of the Internal Revenue Code of 1986;

''(7) the right of the debtor to receive alimony, support, or separate maintenance for the debtor or dependent of the debtor;

''(8) refund of a tax due to the debtor under a State earned income tax credit; or

''(9) advance payment of a State earned income tax credit.''.

(b) PROTECTION OF EARNED INCOME TAX CREDIT AND SUPPORT PAYMENTS UNDER BANKRUPTCY REPAYMENT PLANS IN CHAPTER 12.—Section 1225(b)(2) of title 11, United States Code, as amended by section 218 of this Act, is amended—

(1) by inserting ''(A)'' before ''For purposes'';

(2) by striking ''(A) for the maintenance'' and inserting ''(i) for the maintenance'';

(3) by striking ''(B) if the debtor'' and inserting ''(ii) if the debtor''; and

(4) by adding at the end the following:

''(B) In determining disposable income the court shall not consider amounts the debtor receives or is entitled to receive from—

''(i) any refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed by section 32 of the Internal Revenue Code of 1986 for such year;

''(ii) any advance payment for an earned income tax credit described in clause (i); or

''(iii) child support, foster care, or disability payment for the care of a dependent child in accordance with applicable nonbankruptcy law.''.

(c) PROTECTION OF EARNED INCOME TAX CREDIT AND SUPPORT PAYMENTS UNDER BANKRUPTCY REPAYMENT PLANS IN CHAPTER 13.—Section 1325(b)(2) of title 11, United States Code, as amended by section 218 of this Act, is amended—

(1) by inserting ''(A)'' before ''For purposes'';

(2) by striking ''(A) for the maintenance'' and inserting ''(i) for the maintenance'';

(3) by striking ''(B) if the debtor'' and inserting ''(ii) if the debtor''; and

(4) by adding at the end the following:

''(B) In determining disposable income the court shall not consider amounts the debtor receives or is entitled to receive from—

''(i) any refund of tax due to the debtor under subtitle A of the Internal Revenue Code of 1986 for any taxable year to the extent that the refund does not exceed the amount of an applicable earned income tax credit allowed by section 32 of the Internal Revenue Code of 1986 for such year;

''(ii) any advance payment for an earned income tax credit described in clause (i); or

''(iii) child support, foster care, or disability payment for the care of a dependent child in accordance with applicable nonbankruptcy law.''.

(d) EXEMPTIONS.—Section 522(d) of title 11, United States Code, as amended by section 224 of this Act, is amended in paragraph (10)—

(1) in subparagraph (C), by adding ''or'' after the semicolon;

(2) by striking subparagraph (D); and

(3) by striking ''(E)'' and inserting ''(D)''.

On page 92, line 5, strike ''personal property'' and insert ''an item of personal property purchased for more than $3,000''.

On page 93, line 19, strike ''property'' and insert ''an item of personal property purchased for more than $3,000''.

On page 97, line 10, strike ''if'' and insert ''to the extent that''.

On page 97, line 10, after ''incurred'' insert ''to purchase that thing of value''.

On page 98, line 1, strike ''(27A)'' and insert (27B)''.

On page 107, line 9, strike ''and aggregating more than $250'' and insert ''for $400 or more per item or service''.

On page 107, line 11, strike ''90'' and insert ''70''.

On page 107, line 13, after ''dischargeable'' insert the following: ''if the creditor proves by a preponderance of the evidence at a hearing that the goods or services were not reasonably necessary for the maintenance or support of the debtor''.

On page 107, line 15, strike ''$750'' and insert ''$1,075''.

On page 107, line 17, strike ''70'' and insert ''60''.

Beginning on page 109, strike line 21 and all that follows through page 111, line 15, and insert the following:

SEC. 314. HOUSEHOLD GOOD DEFINED.

Section 101 of title 11, United States Code, as amended by section 106(c) of this Act, is amended by inserting before paragraph (27B) the following:

''(27A) 'household goods'—

''(A) includes tangible personal property normally found in or around a residence; and

''(B) does not include motor vehicles used for transportation purposes;''.

On page 112, line 6, strike ''(except that,'' and all that follows through ''debts)'' on line 13.

On page 112, line 19, strike ''(2),''.

On page 112, line 21, strike ''(3)'' and insert ''(2)''.

On page 112, line 24, strike ''(4)'' and insert ''(3)''.

On page 113, between lines 3 and 4, insert the following:

(c) EXCEPTIONS TO DISCHARGE.—Section 523 of title 11, United States Code, is amended—

(1) in subsection (c), by inserting ''(14A),'' after ''(6),'' each place it appears; and

(2) in subsection (d), by striking ''(a)(2)'' and inserting ''(a) (2) or (14A)''.

On page 263, line 8, insert ''as amended by section 322 of this Act,'' after ''United States Code,''.

On page 263, line 11, strike ''(4)'' and insert ''(5)''.

On page 263, line 12, strike ''(5)'' and insert ''(6)''.

On page 263, line 13, strike ''(6)'' and insert ''(7)''.

On page 263, line 14, strike ''(4)'' and insert ''(5)''.

On page 263, line 16, strike ''(5)'' and insert ''(6)''.

Mr. DODD. Mr. President, I offer this amendment on behalf of myself and Senator LANDRIEU, Senator KENNEDY, and others who may be interested in joining in this particular effort.

Mr. President, this is an amendment which I would hope would be adopted. I am sorry in a sense it is not being accepted because it goes to the very heart of what many of us have talked about and tried to accomplish over the years, since bankruptcy laws were first modernized and adopted almost a century ago in 1903. This amendment deals with families, with spouses, with child support issues, and where they come in the context of priorities when it comes to discharging responsibilities under the bankruptcy act.

It is no great secret that in 1998, we learned that as much as $43 billion in child support payments remained uncollected in the United States. It is a staggering sum of money and makes a huge difference to children growing up under adverse circumstances as they are. When you exclude the ability to receive the financial support necessary to make ends meet, the problem becomes even more pronounced.

I raise that because last year this body voted on important legislation that would provide needed reform to our bankruptcy laws, while at the same time ensuring that children and families would remain unhindered in their efforts to collect domestic support from bankrupt debtors.

Since 1903, our Nation's bankruptcy code has been guided by the firm principle that women and children must be first in the distribution line of available assets during bankruptcy proceedings. For almost a century, debt owed to children and families has been nondischargeable. Thus, if a head of household fails financially, whatever remaining assets he has could be used to spare his spouse or ex-spouse and his children from impoverishment. We do this because those who are most vulnerable in our society deserve the most protection.

With this principle in mind, this body recently added another protection for domestic support obligations in bankruptcy. The Bankruptcy Reform Act of 1994 made children and families a priority unsecured creditors. This enabled women and children to receive payments on their claims before other creditors.

Today's bill, the Bankruptcy Reform Act of 1999, would fundamentally alter this delicate balance achieved after almost a century of jurisprudence. We are altering the bankruptcy landscape for the benefit of the credit card industry without understanding what the consequences for families will be.

Women and children will be disproportionately affected by this legislation, unless it is amended. Whether as debtors filing for bankruptcy themselves or as creditors, three quarters of a million women will be affected this year by the bankruptcy system, and it is estimated that as many as 1 million women will be affected in the coming year.

I recognize the precipitous rise in bankruptcies in the last few years. It is a problem that needs to be dealt with. I agree with those of my colleagues who think the law needs to be reformed and tightened up. I also agree with HENRY HYDE, Chairman of the House Judiciary Committee, that it is possible to enact legislation that is highly favorable to the credit card companies and tightens the laws without depriving debtors and their families of reasonably necessary living expenses.

As the legislation is currently drafted, the credit card industry is protected. Unfortunately, families are not, in my view. Maybe that is why all the major family and children advocacy groups presently oppose this bill. Yet with the adoption of the amendment that Senator LANDRIEU and I have offered, we think we can bring substantial support to this bill.

I have serious concerns about the bill, as it is presently drafted, because of its potential harm to children and to families. This bill presents obstacles to families both before, during, and after bankruptcy that leave the alarming potential for family support income to be dissipated and misdirected to credit card companies rather than to the families who need that help.

First, I am greatly concerned about the means test, which requires the trustee in bankruptcy to review all individual Chapter 7 cases for ability to pay debts under a rigid IRS formula devised originally for delinquent taxpayers, now to be applied in bankruptcy proceedings. These standards neither take into account differences in the cost of living from region to region nor do they ascribe rational expenses to individual families. As such, the use of these standards will deprive children and families of reasonably necessary living expenses.

Additionally, because the means test increases the potential for dismissing chapter 7 cases, this bill channels many debtors into 5-year chapter 13 repayment plans, even though we know for a fact two-thirds of such plans fail today. What will families live on during this time?

I am also concerned about the provisions of the legislation that make certain credit card debt nondischargeable. While the recent family support provisions added to the legislation are positive improvements, they have not cured the problems caused by other provisions of the bill which give greater collection rights to credit card lenders and fewer, in my view, to families and children.

This bill elevates credit card debt to a presumed nondischargeable status. If a debtor purchases items or services on credit from a single creditor within 90 days of bankruptcy and such items exceed $250 in value, these items would be presumed luxuries. This chart to my right explains it.

Under current law, food, medicine, and clothing equal necessities. Under present law, if the amount is less than $1,075 per creditor and incurred within 60 days of the bankruptcy petition, then they are protected.

Under the law as presently drafted, without amendment, food, medicine, and clothing are considered luxuries, if the amount is greater than $250 and incurred within 90 days of the bankruptcy petition. So if you have $251 of food, medicine, and clothing expense and it is incurred within the last 90 days, then you have to go to court and spend the money to prove these are not luxuries: food, medicine, and clothing.

This point is one I find stunning in its potential implications. Let me emphasize, under current law, food, medicine, and clothing are considered necessities. If the amount is in excess or less than $1,075 and incurred within 60 days, there is a presumption those are necessities. That is considered, by today's dollars, enough to accommodate a family.

Here we are now saying food, medicine, and clothing, if it is in excess of $250 within 90 days, that is a luxury. So $251, you have to go to court. If you are a debtor and you are a woman with a family you are raising on your own, you go to bankruptcy court. You have to come up with the money now to prove because it is a rebuttable presumption that you have to overcome if it is $251. By the very factor that you are in bankruptcy court, how many resources are you going to have to hire a lawyer to go in and prove that $251 were necessities and not luxuries. If you are a creditor in this situation, a family, then obviously the problem is also difficult.

If you go to a Kmart and buy clothes for your children, necessities they may need, that is considered a luxury if it is $251. A judgment could be entered by default, and then the debt survives. If you are a single woman as a creditor, then you must wait until your ex-husband tries or does not try to defend a similar purchase. And if he is unsuccessful, there will be less money for him to pay child support. So on either side of the equation, if you are a

woman raising children on your own, either as a debtor or a creditor, this places tremendous burdens on the family.

If this stays in the bill as is, this is a huge blow to average families. There is no consideration of region of the country. I don't care where you live in the United States. Imagine some parts of the country where $251 in 90 days, that is 3 months, if you have three children, $251 is a luxury? You have to go to court and hire a lawyer to prove it wasn't a luxury. We are reforming the bankruptcy laws to try to protect people and families from hardships they can incur? I don't understand this.

If this is sustained in the bill, I urge the President to veto this legislation regardless of what else is here. This would be a huge blow to families to allow this to persist in the legislation.

The bill's proponents will tell us that this is really not the case. Child support is still the No. 1 priority. The reality is that this change will place kids and families first in line for nothing, since such assets are available to support families in less than 1 percent of the cases.

In addition, this change may not place families above lenders if the lenders say their claims are secured by the debtor's property. For the first time, we have allowed these heretofore unsecured creditors to get into the bankruptcy courthouse. Currently, children and family support recipients, taxes, student loans were nondischargeable debts. For the first time in a century the proposed legislation would bring into this unique category these other creditors, i.e. credit card companies, who will make the competition for scarce assets that much fiercer.

These creditors have historically been unsecured because they have received the benefit of high interest. Now they are becoming effectively secured creditors. Most household finance groups secure items of property with agreements. So if you have a television set, the household finance company will have a security interest in the TV obligation, and the company is a secured creditor. The same thing occurs with reaffirmation agreements, and indeed the bill increases the potential for these agreements. Creditors can ask debtors to reaffirm debts of have their property—often of little value—repossessed. These items may be of little value to creditors, but of tremendous value to families, enabling them to continue to survive with the bare necessities. And they too will be elevated into the same sort of status that we have had for children and families, which I think, again, goes beyond anything I think we intended.

With those concerns in mind, the amendment Senator LANDRIEU and I and Senator KENNEDY have offered tries to address these concerns in the bill. Let me address each of the provisions very quickly and turn to my colleague from Louisiana for any further comment she would like to make on this amendment.

First of all, this amendment would modify the means test to provide greater flexibility and reasonableness when calculating the ability to pay. Allowable expenses would include family support, expenses associated with adoption of a child, child care, medical expenses, caring for elderly members of the family, education expenses, and other such critical areas that have been identified as those most families must make. Such expenses should be considered not ignored by the bankruptcy courts.

Second, my amendment will ensure that support payments and other funds intended for the current needs of children do not become the property of the bankruptcy estate with the corollary potential of being distributed to creditors. Money for kids should go to kids, not to creditors.

This amendment will also adopt the House definition of household goods, which enables debtors to keep, during bankruptcy, personal property normally found in and around the home, excluding automobiles. This will ensure that in a bankruptcy children and families are able to keep, without fear of repossession, certain household goods that typically have no resale value, such as toys, swing sets, VCRs, and other items used by parents to help raise their children.

Finally, this amendment will ensure that debtors are not forced into bankruptcy court to seek to prove that food, diapers, school uniforms, toys, and the like are not luxury goods. It would do this by providing that items purchased with a credit card would be nondischargeable only if they were purchased within 70 days, not 90 days, of bankruptcy, have a value of $400 or more per item, and require the creditor to prove at a hearing that the items were not reasonably necessary for the maintenance and support of the debtor and her dependents—shifting the burden, if you will.

Mr. President, I hope that these efforts will win broad support here as we try to again go back to what we have sustained for almost a century, recognizing the modern world we live in and the needs of families trying to see their way through the difficult period of a bankruptcy, which we are going to make far more difficult now for people to take under this law.

I am not opposed at all to the idea of trying to restrain the proliferation of bankruptcy in the country. But as we are doing that, let's not do so in such a way that it places an undue hardship and burden on families trying to make ends meet and trying to keep themselves together. Let's go back to the notion that, since 1903, the bankruptcy code has protected families.

When it comes to families, and women in particular, who could be so adversely affected by changing the means test here, placing the legal burdens on a family to go out and hire a lawyer to prove that $251 in goods over 90 days for a family is not a luxury item—nobody needs to be educated here about who has greater power. Credit card companies have teams of lawyers; they hire them on a permanent basis. But if you are some family out there who has gone through the agony of a bankruptcy, how many lawyers will take on the cases for $251 and try to prove that some items weren't luxury items? How many lawyers want to take on those cases? How long can you stay in court? How many motions can you argue back and forth? Such families are truly at a disadvantage. I am not talking about the poorest families in America; I am talking about middle income, hard-working families that find themselves in the dreadful position of all of a sudden having to readjust their lives because they have been hit by a financial disaster.

I also know there are people out there who abuse the system, who are scam artists, who game the system and use the bankruptcy laws to take advantage of a situation. I know they exist. I am as angry as anybody else that there are people like that out there. But I also happen to believe that the overwhelming majority of people are not scam artists; they are good people, honest people, and they are trying to keep their families together.

I noted last night that during this wonderful economic time we have been having, the top 20 percent of income earners have enjoyed a 115 percent increase in earning power. The middle 20 percent has had a 9 percent increase. The bottom 20 percent has had an 8 percent decline in earning power. While we all rave about the great economy, for middle income families and less than middle income families the times have still been tough.

These are not evil people. The fact that they end up in a financial mess doesn't mean that their children ought to pay a price for it. If you want to be angry at the parent, don't take it out on a child who was born into a family that may face these kinds of financial crises. To say to them you are not going to be able to have access to basic household goods, things like toys, a VCR, and other basic necessities of raising a family, I think that goes too far. It is overreaching and it is unnecessary and it is harmful, and it hurts people. I don't know of anybody in this Chamber who wants to be a party to that.

For those reasons, Mr. President, the Senator from Louisiana and I, and others have offered this amendment. Hopefully, we can get broad and wide support for it to restore what, for 100 years, was basic policy. Families and children come first. Those who are the most vulnerable deserve the most protection. We ought to see to it in this bill that that fundamental principle is not changed. Whatever else we are doing with this law, children and families still come first in our minds, and we are not going to allow them to be hurt, intentionally or unintentionally, by provisions of this bill, as presently

written, which would do just that. For those reasons, we offer this amendment for the consideration of the Senate and hope our colleagues will support it.

The PRESIDING OFFICER. The Senator from the great State of Louisiana is recognized.

Ms. LANDRIEU. Mr. President, I rise in support of this amendment, which attempts to enhance a bill that is intended to do some good things to stop fraud and abuse. But this amendment attempts to take that bill and make it work for everyone and continue the tradition of protecting our children and our families, which is so important.

I thank the Senator from Connecticut for his great leadership and the way he has articulated this issue so well. Neither one of us is on the committee that considered this piece of legislation. I know there were many good Senators from the Republican side and many good Senators from the Democratic side who have come at this with the right intention—to eliminate fraud and abuse. But I thank him for his leadership because, frankly, without this amendment, this bill falls very short of those good intentions.

We, in Louisiana—I know the people in Kansas are like this, too, and I know the people in Connecticut are like this—believe in paying our debts. We do not like freeloaders. We do not like people who are reckless with their finances, although every now and then sometimes we might be, in small instances or large. We do not like that. It is not a value we hold. We believe in being fiscally responsible. We believe in taking care of your own. We believe in taking care of our debts.

So I certainly want to support a bill that would clamp down on fraud and abuse. If it was a poor person who was using fraud and being abusive of the system, they would certainly have to follow the same rules as a middle-class family or as the wealthiest person in my State. I am not asking, and neither is Senator DODD, for any special privilege for any man or any woman. We do ask for special consideration for children. They are not the ones who are ''guilty.'' But we ask no special provision.

This bill as it is currently written goes much too far. I also join Senator DODD in asking the President, if this amendment is not adopted—and I do not know; it may be I will join him in asking the President to veto this bill because this would be a terrible blow to families, to children, and particularly single parents, many of whom are women but not all. There are some fathers who have custody of their children—one, two, three or four—who would fall under the same draconian terms of this bill.

There is no denying, as I said, that there is need for reform of the current bankruptcy law and practice. However, it is important the final bill accurately reflect the needs of those most affected by bankruptcy. This amendment we offer does just that. It has four parts. I am going to speak briefly about only one.

Over the past two decades we have witnessed a 400-percent increase in the use of bankruptcy courts in this country. That figure is alarming. That is why we are trying to see what is causing that and trying to offer some solutions. The figures show a rising number of those claiming bankruptcy, however, are single women. In fact, single women comprise the fastest growing group to file bankruptcy, surpassing men and married couples.

In 1999, more than a half-million single women will file for bankruptcy, 10 times the number who filed in 1981. Despite the overwhelming number of women who find themselves in this untenable state of economic instability, S. 625, as written, does not at all reflect the needs of this population of debtors. This amendment simply revises necessary sections of the bill so it is more realistic, more flexible, and more reasonable in dealing with women and their children, single women and their children—sometimes one child, sometimes two, sometimes three, and in a few cases more than that.

Our amendment does not ask that women with children be treated any differently under the law. It simply ensures the standards which apply to all debtors be sensitive to the very different situations which cause a person to file for bankruptcy. So, in our zest to curb the abuse of some, the rights and needs of others should not be ignored.

S. 625, as currently written, makes it significantly easier for credit card debt to be considered nondischargeable, which is necessary in ending fraud and abuse. However, I think this bill inadvertently puts the claim of credit card companies at a distinct advantage over single mothers or single fathers who are trying to claim their child support. In most cases that is going to be a single mother.

I concede the language clearly is written in the bill that states women and children are the ''first in priority.'' The practical reality, as the Senator from Connecticut has pointed out, as it is currently drafted, is they are first in line for nothing. Given their circumstances of bankruptcy and their lack of resources, how would they ever find the money to hire a lawyer or get the professional services they need to compete in this legal, cumbersome, complicated, time-consuming, and actually spirit-breaking system we are attempting to create here.

Let me demonstrate with an example. I think if people can see an example they might understand this. For the purposes of this argument, let's take Doris, who is a divorced mother of three children ranging in age from 3 to 13 years old. She works at a job earning more than minimum wage but not much. Her ex-husband is 5 months behind in child support—not atypical, given the millions and billions of dollars that are owed. If this bill passes, this is what will happen.

In September of this year, she goes to Kmart where she purchases food, clothing, and other essential items for her family totaling $260. I go to Kmart and Wal-Mart. That is not an unreasonable bill. It is hard to support a family with food and clothing and essentials for much less than that. Actually, I spend more than that in a month. But she spends only $260, trying to be frugal.

In November, she comes to grips with the reality that her income will not get her through the winter. She files for bankruptcy. Under the bill this Senate is about ready to pass, she is going to have to hire a lawyer and go to court to prove that her Kmart purchases were necessary for her family and were not made in an attempt to defraud the system.

I could not under any circumstances vote for a bill that would ask any of my constituents who live in Louisiana, or any who live in Connecticut or any place, to hire a lawyer to go to court to claim that the orange juice, milk, diapers, cookies, some snacks for school, maybe part of a school uniform, is a luxury item. When they come knocking at my door, saying, Senator, why does the law say this, I am going to say we made a terrible mistake. But I didn't make the mistake because we were on the floor trying to explain this to people. Hopefully, they are listening.

Our amendment makes a simple change to this process. Rather than putting the burden on proving the necessity of the purchase on a single mother who has no money, a lot of heartache, a lot of children to take care of, it just puts the onus on the credit card companies to prove these purchases were unnecessary. As the Senator has pointed out, they already have lawyers; they are a credit card company. They have accountants and lawyers to see, perhaps, if something does look amiss. Perhaps if the charges are quite large, they most certainly should be able to pull them into court and make sure the judge would take the proper action.

Credit card companies, as I said, have these investigators to check fraud. The people in my State of Louisiana, in that situation, I promise you, they do not.

Under our system of justice, a person is innocent until proven guilty. Under S. 625, as it stands right now, a woman is guilty of fraud unless she can prove her innocence. This is not what we want to do. I am positive this is not what this President of the United States wants to support. It is unacceptable. If our amendment does not get on this bill, I am going to vote against it. There may be some other amendments that we need to put on, but this clearly is one.

I thank Senator DODD for his leadership in this piece of legislation and will only add this to this discussion: One of the wonderful things I like about being a Senator is I learn something new

every day. I guess my colleagues here feel that way, and I hope the staff does, because it is one of the most interesting things about this job.

I got, today, the gross monthly income schedule for the IRS. I have never had to file for bankruptcy. I don't think I have ever owed any taxes where I had to go according to this schedule. So this would be the first time I will have seen something like this. I am not a lawyer.

I want to say how surprised I am that our Government would have a schedule that basically says if you make $830 or less a month, and you owe taxes to the Federal Government, that you get to eat $170 worth of food. But if you are wealthy and you owe taxes to the Government, you get to eat $456 worth of food every month.

If you have children, if you have one child who happens to be in diapers, you get to buy $71 a month at the store. But if you are wealthy and you have a child—not wealthy but you make $5,000 a month, which would be fairly wealthy—and have one child, you get to buy almost $350 worth of diapers and apparel or services at the store.

My husband and I have a 2-year-old. I spend more than $40 a month on diapers alone—diapers. I don't want anyone in my State to have to hire a lawyer to prove that the expenses they have on their credit card to purchase food or clothing or diapers or milk or formula for their children is not a luxury.

I urge Members who might not have ever looked at this schedule that indicates, when you owe taxes, how much you get to keep—it has no mention of children, no educational expenses. I guess the IRS just assumes children should stop going to school while their parents pay back their taxes.

This is the same schedule I think the Senator from Connecticut has pointed out. I wish I had it blown up because I think people in America would have a hard time believing this.

Mr. DODD. Will my colleague yield?

Ms. LANDRIEU. I will.

Mr. DODD. This is a question for my colleague. The relevance of this is that under the bill as presently written, this is the schedule. This is not interesting subject matter because it is an IRS schedule for tax purposes. This is what has been adopted as part of the bankruptcy bill. So this is your schedule, this is what you know you are going to be limited to; is that correct?

Ms. LANDRIEU. Correct. That is my understanding. Under the current bill, we are adopting an IRS schedule that, in my opinion—and I imagine a majority of people in Louisiana will feel that way—this is an inappropriate schedule for that purpose. It most certainly is an inappropriate schedule for bankruptcy since nowhere on the schedule does it even mention the word ''child'' or children's needs. It does not mention medicine. It does not mention some of the essential things, as the Senator from Connecticut has pointed out.

Mr. DODD. If my colleague will further yield, nor does it mention any geography distinction. This is a standard price whether you live in Louisiana, Connecticut, California, New York City, Washington, DC—this is the same schedule for every person, regardless of where they live in the country; is that correct?

Ms. LANDRIEU. That is correct. As we know, the cost-of-living escalates and is very different from place to place and region to region. This chart is quite deficient.

After this debate, I will be looking at ways the IRS should improve their own schedule.

For the purposes of this debate, we most certainly do not want to take a schedule that is flawed for the purposes of collecting taxes and then apply it to a bankruptcy which is an equally difficult situation in which our families find themselves.

In conclusion, I realize there is fraud and abuse, and I will be the first one to step up and vote for a bill that will clamp down on it. No one deserves special privileges, whether they are poor, middle income or wealthy. This bill, as written, goes too far, and we will be sorry if we do not adopt some amendments to fix it and make it more fair. Let us fight hard for our families. Many of them are having a tough time already. Let's not have the children pay the price for us trying to expedite a bill that does not work for them or for their parents. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. The Senator from Louisiana may want to do this. It is worthwhile. I ask unanimous consent that the IRS schedule be printed in the RECORD so our colleagues have the benefit of looking at the rigidity of this schedule and the paucity of information and items one would normally, reasonably conclude a family might need in order to sustain itself during a period of bankruptcy, such as we suggested.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

COLLECTION FINANCIAL STANDARDS—CLOTHING AND OTHER ITEMS—IRS

Item	Gross Monthly Income—							
	Less than $830	$831 to $1,249	$1,250 to $1,669	$1,670 to $2,449	$2,500 to $3,329	$3,330 to $4,169	$4,170 to $5,829	$5,830 and over
One Person:								
Food	170	198	214	257	270	325	428	456
Housekeeping supplies	18	20	21	26	27	29	35	43
Apparel and services	43	52	75	120	127	129	168	334
Personal care products and services	14	21	23	24	30	37	42	58
Miscellaneous	100	100	100	100	100	100	100	100
Total	345	391	433	527	554	620	773	991

Item	Gross Monthly Income—							
	Less than $830	$831 to $1,249	$1,250 to $1,669	$1,670 to $2,449	$2,500 to $3,329	$3,330 to $4,169	$4,170 to $5,829	$5,830 and over
Two Persons:								
Food	228	277	351	365	424	438	515	635
Housekeeping supplies	23	27	28	40	46	51	57	74
Apparel and services	71	72	98	121	128	167	202	335
Personal care products and services	19	24	28	34	46	40	58	66
Miscellaneous	125	125	125	125	125	125	125	125
Total	466	525	630	685	769	830	957	1,235

Item	Gross Monthly Income—							
	Less than $830	$831 to $1,249	$1,250 to $1,669	$1,670 to $2,449	$2,500 to $3,329	$3,330 to $4,169	$4,170 to $5,829	$5,830 and over
Three Persons:								
Food	272	326	390	406	444	488	545	737
Housekeeping supplies	24	28	29	42	47	55	58	77
Apparel and services	110	114	134	143	175	205	206	368
Personal care products and services	23	28	34	41	47	50	59	67
Miscellaneous	150	150	150	150	150	150	150	150
Total	579	646	737	781	863	948	1,018	1,393

Item	Gross Monthly Income—						
	Less than $830	$831 to $1,249	$1,250 to $1,669	$1,670 to $2,499	$2,500 to $3,329	$3,330 to $4,169	$4,170 to $5,829
Four Persons:							
Food	374	376	406	416	472	574	629
Housekeeping supplies	36	37	38	46	49	57	60
Apparel and services	114	145	146	147	179	206	244
Personal care products and services	27	29	35	46	49	51	62
Miscellaneous	175	175	175	175	175	175	175
Total	726	762	800	830	924	1,063	1,170

Item	Gross Monthly Income—						
	Less than $830	$831 to $1,249	$1,250 to $1,669	$1,670 to $2,499	$2,500 to $3,329	$3,330 to $4,169	$4,170 to $5,829
More Than Four Persons:							
For each additional person, add to four-person total allowance	125	135	145	155	165	175	185

Mr. DODD. Lastly, as I mentioned, virtually all the advocacy groups involved with children and families are in support of this amendment. There is a letter that comes from many of them, including the YWCA, Women Work, Women Employed, Older Women's League, Equal Rights Advocates, who issued a nice letter in support of this.

The Leadership Conference on Civil Rights also has a letter in support of this amendment, along with several other amendments. It specifically mentioned this amendment. I ask unanimous consent both of these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

NOVEMBER 5, 1999.

DEAR SENATOR: The undersigned women's and children's organizations write to urge you to support Senator Dodd's amendment to S. 625, the ''Bankruptcy Reform Act of 1999,'' to protect income dedicated to the support of children and families.

S. 625 puts economically vulnerable women and children—those who are forced into bankruptcy, and those who are owed support by men who file for bankruptcy—at greater risk. By increasing the rights of many creditors, including credit card companies, finance companies, auto lenders and others, the bill would set up a competition for scarce resources between parents and children owed child support and commercial creditors both during and after bankruptcy. And single parent facing financial crises—often caused by divorce, nonpayment of support, loss of a job, uninsured medical expenses, or domestic violence—would find it harder to regain their economic stability through the bankruptcy process. The bill would make it harder for these parents to meet the filing requirements; harder, once in bankruptcy, to save their homes, cars, and essential household items; and harder to meet their children's needs after bankruptcy because many more debts would survive.

Senator Dodd's amendment would address several of the problems the bill would create for women and their families.

The means test provision would reduce some of the harsh and arbitrary barriers to accessing the bankruptcy process that are part of S. 625. S. 625 requires that a rigid means test, devised by the IRS for use with delinquent taxpayers, be applied to individuals and families that file for bankruptcy under Chapter 7 liquidation. The test is used to determine whether the debtor can repay some debt and will be forced into a Chapter 13 repayment plan. The Dodd amendment would make the test more reasonable as applied to families with children by including more family expenditures as allowable expenses, including costs of child care and the care of elderly and disabled family members, health care expenses; spousal and child support payments; expenses associated with adoption; and expenses for children's toys, among others.

The provision on household goods and property of the estate would provide more protection for essential household goods and income intended for the support of children during bankruptcy. In S. 625, only a very limited and specific list of household goods are protected from repossession or threat of repossession: one radio, one television, one VCR per household. Tape players and CD players are not on the list. A personal computer is protected, but only if it is used primarily for minor children; older children who use a computer for research and parents who do some work at home are out of luck. Senator Dodd's amendment, like the household goods provision in the House-passed bill, would allow each situation to be judged on a case-by-case basis, and would allow debtors to keep tangible property normally found in and around a residence.

The provision concerning property of the bankruptcy estate (assets that may be distributed to creditors during the bankruptcy) would ensure that child support payments, and Earned Income Tax Credit refunds available to low-income working families, are not subject to the claims of creditors.

The nondischargeability provision of Senator Dodd's amendment would reduce the competition between credit card companies, and women and children owed support, after bankruptcy. Under current law, child support and alimony are among the few debts that are not dischargeable in bankruptcy. S. 625 would elevate many credit card debts to nondischargeable status. This would increase the competition between credit card companies and women and children owed support after bankruptcy, and make it harder for hard-pressed families with children to get a ''fresh start'' through the bankruptcy process. S. 625 provides that if a person, within 90 days of bankruptcy, purchases items on a single credit card that total $250, they are presumed to be nondischargeable. S. 625 does give the debtor the right to show that the charges were for necessities, not for luxuries. But debtors will have to bear the burden and expense of going into court to prove that the $251 spent over three months for food, and clothing, and school supplies, were not luxuries.

Senator Dodd's nondischargeability provision would provide that credit card purchases would be nondischargeable only if: they are for $400 or more per item or service; they were made within 70 days of filing; and the creditor proves at a hearing that the items are not reasonably necessary for the maintenance and support of the debtor.

This amendment would not address all of the problems with S. 625. But it would ameliorate some of the harshest effects of the legislation on women and their families.

Sincerely,

National Women's Law Center, National Partnership for Women & Families, ACES, Association for Children for Enforcement of Support, American Association of University Women, Business and Professional Women/USA, Center for the Advancement of Public Policy, Coalition of Labor Union Women (CLUW), Equal Rights Advocates, Feminist Majority, National Association of Commissions for Women, National Center for Youth Law, National Organization for Women, Northwest Women's Law Center, NOW Legal Defense and Education Fund, Older Women's League (OWL), Women Employed, Women Work!, YWCA of the USA.

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS,
Washington, DC, November 9, 1999.

Re: The ''Bankruptcy Reform Act of 1999''.

DEAR SENATOR: On behalf of the Leadership Conference on Civil rights (LCCR), a coalition of 180 national organizations representing people of color, women children, organized labor, persons with disabilities, older Americans, major religious groups, gays and lesbians and civil liberties and human rights groups, we urge you to oppose S. 625, the ''Bankruptcy Reform Act of 1999.''

As you know, bankruptcy reform has not been, per se, an issue of traditional concern to the LCCR. However, S. 625 poses significant concerns for the civil rights of all working persons in the United States.

While the LCCR does not support the comprehensive legislation of S. 625, we do support three amendments to the bill. First, we support the ''Children and Families amendment,'' which will be offered jointly by Senators Dodd, Landrieu and Kennedy. Second, we support the ''Predatory Leading Amendment,'' which Senator Durbin will offer. Third, we support the Minimum Wage Amendment which will be offered by Senator Kennedy. Each of these amendments is important to balanced and effective bankruptcy reform; and we strongly urge you to support them.

The ''Children and Families Amendment'' is designed to ensure that child and espousal support payments and earned income tax credits are not property of the bankruptcy estate. The legislation will replace the current definition of household goods with the House of Representative's definition to allow debtors to keep personal property found in and around the residence. Finally, the amendment will modify the means test to allow more flexibility when there are special expenses related to the care and support of children.

The ''Predatory Lending Amendment'' is designed to discourage abusive lending practices. The Durbin amendment targets lenders

that violate current Truth in Lending Act standards. The amendment simply says if an individual violates current law they lose their claim in bankruptcy.

The Mimimum Wage Amendment is especially important and we strongly urge you to support it. It will help over 12 million Americans—mostly adult workers trying to support their families. By increasing the earnings of workers who are paid hourly from $5.15 to $5.65 an hour in 1999 and to $6.15 in 2000, we will be making it easier for these working families to provide the essentials for their children. Given that bankruptcy is particularly hard on low wage workers, this modest increase in the minimum wage is an especially fair element to any bankruptcy reform measure.

BACKGROUND

As a general matter, every economic discrimination suffered by disadvantaged groups in our society is reflected in the bankruptcy courts. Last year nearly 1.4 million families filed for bankruptcy, a record number. Most of the families that used the bankruptcy system were those middle class Americans who are most vulnerable economically:

SINGLE PARENTS AND THEIR CHILDREN

In 1997, about 300,000 bankruptcy cases involved child support and alimony orders.[1] For about half, women were creditors seeking payments from their ex-husbands following a divorce. In addition, nearly 400,000 women heads-of-households filed for bankruptcy to stabilize their economic conditions. Many dealt with debts incurred during marriage, including debts their ex-husbands had been ordered to pay but for which the wives remained legally responsible when their ex-husbands did not pay. Without bankruptcy, these women would have been forced to choose between spending their now-reduced family incomes on rent, groceries and utilities or on past-due credit card bills.

For women, the cumulative effects of lower wages, reduced access to health insurance, the devastating economic consequences of divorce, and the disproportionate financial strain of rearing children alone is reflected in why women heads of households find themselves in bankruptcy courthouses.

OLDER AMERICANS

About 280,000 Americans aged 50 and older filed for bankruptcy during 1997.[2] Older Americans are more vulnerable to the consequences of a job loss; someone pushed out of a job at age 54 has a very hard time coming back economically. Medical coverage is limited just as their medical needs increase. Among Americans older than 65, about a third explained that medical bills not covered by medicare has pushed them to economic collapse. Altogether, more than two-thirds of older Americans attributed their financial problems to uninsured medical bills and job losses.

AFRICAN AMERICAN AND HISPANIC AMERICAN HOMEOWNERS

About 650,000 homeowners filed for bankruptcy last year trying to save their homes.[3] For all homeowners, bankruptcy gave them a chance to stabilize economically and focus their incomes on paying their mortgages to save their homes. However, the economic struggle for Hispanic American and African American homeowners is harder than for any other group. While 68% of whites own their own homes, only 44% of African Americans and Hispanic Americans own their own homes. Both African American and Hispanic American families are likely to commit a larger fraction of their take-home pay for their mortgages, and their homes represent virtually all of their family wealth. It is no surprise, then, that African American and Hispanic American homeowners are *six hundred percent* more likely to seek bankruptcy protection when a period of unemployment or uninsured medical loss puts them at risk for losing their homes.

Industry consultants estimate that credit card companies could cut their bankruptcy losses by more than 50% if they would institute mimimal credit screening.[4] Instead, the credit issuers have spent a reported $40 million last year on lobbyists and lawyers to urge Congress to become the collection agent for their bad loans—even as their profits reach into the billions of dollars.

We strongly believe that the underlying provisions of S. 625 would disproportionately affect working families and the constituencies that comprise the Leadership Conference on Civil Rights. While the LCCR does not support the overall bankruptcy reform bill, we fully support the ''Children and Families Amendment;'' the ''Predatory Lending Amendment;'' and the Minimum Wage Amendment. Each of these amendments is important to balanced and effective bankruptcy reform. We strongly believe that no bill should be enacted that does not include these three amendments that are crucial to the livelihood of all working Americans.

Thank you for consideration of our views.

Sincerely,

WADE HENDERSON,
Executive Director.

END NOTES

[1]The reported data are from Health and Human Services (support data) and Teressa A. Sullivan, Elizabeth Warren, Jay Lawrence Westbrook, ''Bankruptcy and the Family,'' 21 Marriage and Family Review 193 (Haworth Press 1995).

[2]Teresa Sullivan, Elizabeth Warren, and Jay Westbrook, ''From Golden Years to Bankrupt Years,'' Norton Bankruptcy Law Adviser 1 (July 1998). Teresa Sullivan, Elizabeth Warren, and Jay Lawrence Westbrook, ''Baby Boomers and the Bankruptcy Boom,'' Norton Bankruptcy Law Adviser 1 (April 1993).

[3]Teresa Sullivan, Elizabeth Warren, and Jay Westbrook, The Fragile Middle Class: Americans in Financial Crisis (forthcoming Yale University Press 1999); Teresa Sullivan, Elizabeth Warren and Jay Westbrook, As We Forgive Our Debtors; Bankruptcy and Consumers Credit in America 128–144 (Oxford University Press 1989).

[4]August, Fair, Isaac & Co. Released a new/bankruptcy predictor that it says can eliminate 54% of bankruptcy losses by eliminating potential nonpayers from the bottom 10% of credit car holders. ''Credit Cards: Fight for Bankruptcy Law Reform Masks Truth,'' 162 Am. Banker 30 (September 8, 1997).

Endnotes at end of article.

Mr. DODD. Mr. President, I do not know what the schedule is for this. I know we are not going to vote this evening, obviously. I ask unanimous consent that prior to a vote on this amendment the proponents and opponents will have at least a couple of minutes on either side to explain this amendment to our colleagues, since it is a bit complicated. There are pieces to it. Two minutes may not be enough; maybe 3 minutes on a side to explain what is in this amendment prior to the vote, whenever that occurs, Mr. President.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DODD. I know other colleagues want to be heard. I thank the indulgence of my colleagues on the floor for listening to this debate.

Mr. GRAMM. Mr. President, one of the provisions of the bill before the Senate today would ''amend the Federal Reserve Act to broaden the range of discount window loans which may be used as collateral for Federal Reserve notes.'' This legislation was considered by the House Banking Committee and has been referred to the Senate Banking Committee. It is now being offered as an amendment to the bankruptcy bill to expedite its enactment prior to the adjournment of the Congress.

The currency collateral legislation would expand the field of assets that the Federal Reserve may use to collateralize Federal Reserve notes. All currency in circulation must be backed by specific assets, but much of the collateral that the Federal Reserve accepts for discount window loans is ineligible under current law for use to back the currency. The changes put in place by this legislation will allow the Federal Reserve to apply all eligible discount loan assets to collateralize the currency.

This legislation poses some risks unless adequate safeguards are in place. The Federal Reserve applies a discount to each type of asset used as collateral. Broadening the scope of eligible assets makes it even more imperative that strict and aggressive discounting be applied to any assets used to back U.S. currency. The Federal Reserve should discount aggressively these assets through an objective and clearly defined process that leaves no room for doubt that our currency is fully backed by reliable assets. At the most basic level, when valuing these assets this should be our general rule: when in doubt, discount.

Failure to discount collateral assets aggressively would do more than threaten the safety and soundness of the Federal Reserve's balance sheet; it would threaten the U.S. economy and all economies that rely on a stable dollar. Many countries around the world recently have learned a painful lesson on the value of a sound currency.

We must remember that any country can engage in monetary mismanagement, and most have at some point in time. The United States must avoid that path. With a currency that is considered a stable medium by U.S. citizens and a store of value by both domestic and foreign investors, the Federal Reserve must hold sound money paramount as it implements this important change in currency collateral requirements. It has taken nearly two decades to rebuild the reputation of the dollar after the inflation of the Carter years. Today, ''sound as a dollar'' has meaning here and all over the world. We must do nothing to undermine it.

Mr. L. CHAFEE. Mr. President, I rise to clarify my two votes today on amendments to the bankruptcy reform legislation to increase the minimum wage by $1.00, from $5.15 to $6.15 per hour. Let me begin by saying that I preferred the approach taken by Senator KENNEDY's amendment to increase the minimum wage in two increments over the next fourteen months.

As my colleagues are aware, an increase in the minimum wage is needed for our Nation's workers. At our current minimum wage of $5.15 per hour, many of our workers are unable to support themselves and their families. In response to this need, I voted against a motion to table the Kennedy amendment because I believe workers should receive the increase over fourteen months, as opposed to the twenty-nine months proposed in the Domenici amendment. I also preferred the Kennedy approach because the business tax incentives offered in the amendment were fully paid for. On the other hand, the Domenici amendment provided $75 billion in business tax incentives to be funded by projected budget surpluses which may, or may not, materialize. Nevertheless, to its credit, the Domenici amendment offered provisions related to health insurance deductibility, and the permanent extension of the Work Opportunity Tax Credit—two important legislative items.

It is no secret that our economy is strong. Inflation is low and the economic arguments against raising the minimum wage are attempts not particularly persuasive. In fact, a recent editorial in the Providence Journal stated that ''. . . higher wages often mean greater loyalty and effort on the part of employees. Thus, whatever the increment of a higher minimum wage, that cost could be more than offset by higher revenue and profits from increased productivity and reduced turnover, hiring, and training costs. . . . Congress ought to do it.''

However, when the Kennedy amendment was tabled, I thought it was important to have, at the very least, some version of a minimum wage package approved by the Senate. Thus, I then voted in favor of the Domenici amendment. Although it is not an ideal package, I am hopeful that an agreement can be reached on a sensible, bipartisan approach to raising the minimum wage once the House passes its own version of the legislation. I urge my colleagues find that common ground, which in the end, will help our economy and our working families. We ought to do it.

Mr. LEVIN. Mr. President, the amendment I will offer requires the Federal Reserve to submit a report to the Senate and House Banking Committees concerning: (1) whether the location of the residence of an applicant for a credit card is considered by a financial institution in determining whether the applicant should be granted such card; and (2) the purposes for which such location is taken into consideration by such institution.

Mr. President, an individual's credit worthiness should be judged on his or her own credit history and not on where that individual happens to live. The stereotyping of consumers based on where they live is a social evil with very negative social consequences. The Congress has been instrumental in formulating legislation that seeks equal credit opportunity for all. If creditworthy persons can be rejected on account of his or her place of residence, our work is incomplete. Credit applicants should be considered on the basis of their individualized creditworthiness and not on the basis of place of residence.

Mr. President, this amendment requires that the Federal Reserve report be submitted not later than six months after the date of enactment of this act. I understand that the committee has no obligation to this amendment. I ask unanimous consent that the text of my amendment be printed following my remarks. The amendment is as follows:

SECTION 415

Mr. STEVENS. Mr. President, today I want to discuss a measure that will deal with a problem with the pension limits in section 415 of the Tax Code as they relate to multiemployer pension plans. This is a problem I have been trying to fix for years.

Section 415, as it currently stands, deprives working people of the pensions they deserve. In 1996, Congress addressed part of the problem by relieving public employees from the limits of section 415. It is only proper that Congress does the same for private workers covered by multiemployer plans.

Mr. DOMENICI. How does the current language of section 415 deprive workers of the pensions they earn?

Mr. STEVENS. That is a good question. It is a difficult issue that points to the complexity of the current Tax Code. Section 415 negatively impacts employees who have had various employers. Currently, the pension level is set at the employee's highest consecutive 3-year average salary. With fluctuations in industry, often times employees have up and down years rather than steady increases in their wages. This is especially true for those in the construction industries and other sectors that fluctuate with the local economic conditions. Fluctuations in work and income from year-to-year can skew the 3-year salary average for the employee, resulting in a lower pension when the worker retires.

Mr. DOMENICI. Does the Senior Senator from Alaska have any examples of how section 415 negatively impacts workers in multiemployer plans?

Mr. STEVENS. I thank the Budget Committee chairman for asking about section 415's real impact. An example of section 415's impact illustrates how unfairly the current law treats working people in multiemployer plans. Take, for instance, a woman who held two jobs before retiring. Upon leaving her first job she had accrued a monthly retirement benefit of $474 per month. In her second job she was employed for 15 years by a local union and her highest annual salary was $15,600. When she retires she applies for pension benefits from the two plans by which she was covered. She had earned a monthly benefit of $1,000 from the one plan and combined this with the monthly benefit of $474 from the second plan for a total monthly income of $1,474 or $17,688 per year. She looked forward to receiving this full amount throughout her retirement. However, the benefits had to be reduced by $202 per month, or about $2,400 per year to match her highest annual salary of $15,600. The so-called ''compensation based limit'' of section 415 of the Tax Code did not to take into account disparate benefits, but intended only to address people with a single employer likely to receive steady increases in salary.

Mr. DOMENICI. Does this affect all retirees with pension plans?

Mr. STEVENS. No. Section 415 treats public employees differently from workers in multiemployer plans. If she had been a public employee covered by a public plan, her pension would not be cut. This is because public pensions plans are not restricted by the compensation-based limit language of section 415. This robs employees in multiemployer plans of the money they have earned simply because they were not public employees.

Mr. DOMENICI. How does the current treatment of section 415 comport with recent efforts to increase pension education and to encourage people to save for retirement?

Mr. STEVENS. We do look for ways to encourage people to save for retirement and we try to educate people of the fact that relying on Social Security alone will not be enough. Yet the law may penalize many private sector employees in multiemployer plans by arbitrarily limiting the amount of pension benefits they can receive. It is wrong, and it should be fixed.

Mr. DOMENICI. How would the proposed changes to section 415 impact the treasury?

Mr. STEVENS. The Joint Committee on Taxation estimated last year that the changes adopted by the Senate on July 30th and included in my proposal would result in a tax expenditure of $4 million in the first year, $26 million over 5 years and $69 million over 10 years. It is a modest price to pay to ensure that people who have worked all their life can get the retirement benefits they are entitled to.

Mr. DOMENICI. This is not a new issue, is it?

Mr. STEVENS. No. It is an issue I have been involved with since the mid-1980's. Since that time we have seen thousands of working people in multiemployer plans retire with benefits below what they actually earned. I cosponsored S. 1209 with Senator MURKOSWKI in this session to address the problems of section 415. The provisions of that bill were accepted by the Senate Finance Committee and were included in section 346 of the Taxpayer Refund Act of 1999 passed by the Senate. That provision would have:

(1) Eliminated the application of the 100 percent of compensation defined benefit plan limit for multiemployer plans;

(2) Not allowed multiemployer plans to be aggregated with other plans

maintained by an employer contributing to the multiemployer plan in applying the limits on contributions and benefits except in applying the define benefit plan dollar limitation;

(3) Applied the special rules for defined benefit plans of governmental employers to multiemployer plans, thus eliminating the high-three-year average limitation; and

(4) Increased reductions of the dollar limit prior to age 62 for defined benefit plans of governmental employers and tax-exempt organizations, qualified Merchant Marine plans and multiemployer plans from $75,000 to 80 percent of the defined benefit dollar limit.

In addition, measures to relieve the inequity of applying the three year high average had been passed three times prior to the passage of the Taxpayer Refund Act of 1999 by the Senate, most recently in the 1997 Taxpayer Relief Act.

The provisions contained in the Domenici Amendment to the bankruptcy bill would:

(1) Increase the limit for defined benefit plans from $90,000 to $160,000;

(2) Increase the limit to be adjusted before the Social Security retirement age from $90,000 to $160,000; and

(3) Increase contribution limits from $30,000 to $40,000.

While these proposals are important to ensuring retirees get the benefits they deserve, they do not go far enough to create parity between retirees in multiemployer plans and retirees in public plans.

Mr. NICKLES. Note that the Senate Finance Committee approved most of the provisions outlined by Senator STEVENS and later all of the provisions in his proposal were included in the Senate version of the Taxpayer Refund Act of 1999 that passed the Senate on July 30th. The problems for working people in multiemployer plans associated with section 415 concern me and I understand the Budget Chairman will join me in working to secure the provisions described by Senator STEVENS.

Mr. DOMENICI. Yes. The assistant majority leader is correct.

Mr. STEVENS. I thank the distinguished budget chairman and the assistant majority leader.

MORNING BUSINESS

Mr. GORTON. Mr. President, I now 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.

MICROSOFT FINDINGS OF FACT

Mr. GORTON. Mr. President, it was recently reported that Department of Justice anti-trust chief Joel Klein attended a party to celebrate James Glassman's new book ''Dow 36,000.'' During the party, Mr. Klein, who is prohibited from buying and selling stocks while he serves in his current post, was overheard saying to the author, ''Wow. Dow 36,000—I hope it'll wait until I get out of office.'' Mr. Glassman reportedly responded that Mr. Klein was already doing his part to keep the Dow down.

Mr. President, I am here to report that not even Joel Klein and the Department of Justice can shake the confidence of investors all across this great land who responded to Judge Jackson's Findings of Fact with a mild yawn. Apparently, investors understand that punishing trail blazing companies that have brought dramatic and positive change to consumers never has been, and never should be, the American way.

Despite the Government's attempts to turn the public against Microsoft, Microsoft continues to be one of the most respected companies in America. A majority of Americans believe Microsoft is right and the Government is wrong in this current lawsuit. In fact, a Gallup poll conducted over the weekend suggested that 67 percent of Americans still have a positive view of Microsoft despite the efforts of the Federal Government.

Judge Jackson made clear early in the case that he shared the administration's desire to punish Microsoft for being too successful. His Findings of Fact do not remotely reflect the phenomenal competition and innovation that is taking place in the high-tech industry every day. Reading the Findings, it is clear that even this judge could not document tangible consumer harm. Judge Jackson's thesis is that Microsoft is a tough competitor and that that toughness must stifle innovation and must harm consumers. But the judge could document no tangible harm * * * and this is why he will be reversed.

When you look at the world around us, whether in the workplace, at home, in schools, you see first-hand how 25 years of innovation in the high-tech industry has empowered and enriched people from all walks of life.

Every family and every community in America has benefited from the information revolution fueled by Microsoft. Sitting on the desktop in every office, school and hospital is a machine that brings power directly to people. Ten years ago only governments and large institutions had the power that so much information and knowledge brings. Today, because of competition among software and Internet businesses, that power runs to people and to families in cities and towns everywhere.

While the trial was going on, the high-tech industry has changed dramatically and reinvented itself a dozen times. Competition is alive and well and consumers are reaping the benefits.

Do the following numbers sound like they come from an industry that is stifled by monopolistic practices?

In 1990, there were 24,000 software companies. Today there are 57,000. And this growth shows signs of accelerating even further.

The high-tech industry accounts for 8.4 percent of America's GNP and one-third of our economic growth.

This year, the software industry alone will add almost $20 billion in exports to America's balance of trade.

It is particularly amazing that Judge Jackson found that barriers to entry into the market are too high. Apparently Linus Torvalds didn't get that memo. The 21-year-old student at the University of Helsinki recently disseminated into cyberspace the code for a computer operating system he had written. This experiment has evolved into the Linux operating system, which now has over 15 million users and is supported by such industry heavyweights as IBM, Intel, Hewlett-Packard, Dell, Gateway, Compaq, and Sun Microsystems.

Also fascinating is the fact that the co-founder of Netscape, Marc Andreessen, created the technology for the Netscape web browser when he was a student at the University of Illinois. Four years later, the company he founded sold for $10 billion. Clearly, anyone with a great new idea can compete in this fast-paced competitive economy.

Although Microsoft is at the center of this fantastic growth that has helped the economy and brought incredible technological advances to consumers, its position as a market leader is not secure. It remains true that anyone, from any background, can by hard work and determination, take on the most successful corporation of the 20th century. As the explosive growth of Linux shows, Microsoft, too, must be allowed to compete, or be relegated to the slow lane of the information superhighway.

The competitive environment in high-tech has never been stronger. Every day new alliances change the face of the industry. America Online has transformed itself into a web, software, and hardware dynamo by purchasing Netscape, forming an alliance with Sun Microsystems, and investing heavily in Gateway. It is competitors like this who are positioned to ensure that vigorous competition, which is a boon to consumers, will lead the way into the 21st century.

Should the Federal Government intervene, our entire economy will suffer. By picking winners and losers, stifling innovation and attempting to regulate through litigation, the Federal Government can do immeasurable harm to an industry it admits it doesn't even understand. Need I remind you that these are the same people who have brought you models of efficiency such as the IRS?

Regardless of the exponential growth and vigorous competition in the high-tech industry, Judge Jackson seems convinced that consumers have been harmed by Microsoft. This he believes despite the testimony of the government's own witness, MIT professor

Franklin Fisher, who when asked whether consumers have been harmed by Microsoft, responded, ''On balance, I'd think the answer is no.''

Nevertheless, I was stunned when listening to Joel Klein proclaim that the Findings were great news for consumers. When is it good news for consumers to learn that the Federal Government is now running the high-tech industry? When Bill Gates, Scott McNealy (Sun CEO), or the head of a new high-tech start-up want to integrate new products or features into their software they will first have to get clearance from the de facto CEO of high tech, Joel Klein.

Speaking of the Associate Attorney General, if you were watching CNN last Friday evening without the volume on, you would have thought from the looks on their faces that Janet Reno and Joel Klein had just won the POWERBALL lottery or been given $10 million dollars by Ed McMahon. Mr. President, I repeat—this decision is not good news for consumers. The findings represent a terrible precedent, not only for Microsoft, but for high-tech companies in Silicon Valley, Austin, TX and the Dulles corridor in Virginia. The message is: if you get big, or too successful—you will be punished. The Department of Justice is keeping an eye on you—be careful or you may be next. The capital of the high-tech world isn't in Silicon Valley or Washington State, it's conveniently located within our Department of Justice on Pennsylvania Avenue.

But, Mr. President, I have been a frequent critic of the Department of Justice's attacks against Microsoft and the high tech industry for a long time now. I will continue to ask questions—I will continue to defend the ability of high-tech companies that wish to compete without the threat of government intervention. I will continue to be deeply concerned about how the Department of Justice's action on Friday will jeopardize America's standing as a global leader in the field of technology. The Department of Justice has now invited Microsoft's foreign competitors to use their governments to limit Microsoft's success. Joel Klein has just tilted the balance of power in favor of high tech companies abroad, in effect saying to Microsoft: Slow down and let the rest of the world catch up.

But I am sure many of these same questions and concerns will be raised by Microsoft's own employees next week when they host Vice President GORE on the Redmond campus.

To conclude, I repeat: This case should be dropped because antitrust laws exist to protect consumers—people who buy goods and services. Antitrust laws were not created to protect Microsoft's competitors, but that is what this Justice Department is doing. It is using the power of the Federal Government to punish Microsoft for being too successful in comparison to its competitors.

In the end, I believe, higher Federal courts will throw this case out. The truth and the correct legal analysis will prevail—Microsoft has not harmed consumers and, thus has not violated our antitrust laws.

EDUCATION

Mr. GORTON. Mr. President, two major debates are taking place in the Congress and in the White House at the present time, two major debates relating to education.

Tomorrow we are likely to take up an amendment to establish the Teacher Empowerment Act. And tomorrow we will almost certainly deal, finally, with the appropriations bill for Labor, Health and Human Services, an appropriations bill that includes billions of dollars for public education in the United States of America.

There is a profound difference between the President of the United States and what I believe is a majority of the Members of both Houses of Congress over how that money on education should be spent. This morning's Washington Post summarizes that argument in quotations from our majority leader, Senator LOTT, and the President of the United States.

Senator LOTT said:

> The big issue is, who controls it? Will Washington bureaucrats assert and control where this money is used, or will there be some discretion at the local level, based on what local needs are, whether it's books or computers or training for teachers, or for teachers themselves?

The President of the United States, according to the Washington Post:

> . . . told reporters that the federal money for new teachers does not belong to states and local school districts. ''It's not their money,'' he said.

What arrogance. The money does not belong to President Bill Clinton. This is money that comes out of the pockets of the American people across the United States, money they want to be used on the most effective possible education for their children.

The American people believe very firmly that decisions relating to the education of their children can be made more effectively and more sensitively at home by elected school board members, by superintendents, by principals, by teachers, and by parents than they can be by bureaucracies in the Department of Education in Washington, DC, or even by that national superintendent of public instruction, the President of the United States.

In fact, during the course of this debate over whether or not we should grant more authority to local school districts and to teachers and parents, a number of studies have come out on the question of whether the primary need in education in the United States is more teachers.

One of them comes from my own State from the Joint Legislative Audit and Review Committee, the ''K–12 Finance and Student Performance Study.'' That study, just a little bit earlier this year, stated:

> An analysis of 60 well-designed studies found that increased teacher education, teacher experience, and teacher salaries all had a greater impact on student test scores per dollar spent than did lowering the student-teacher ratio. According to one researcher, ''Teachers who know a lot about teaching and learning and who work in settings that allow them to know their students well are the critical elements of successful learning.'' Given limited funds to invest, this research suggests considering efforts to improve teacher access to high quality professional development. A recent national survey of teachers found that many do not feel well prepared to face future teaching challenges, including increasing technological changes and greater diversity in the classroom.
>
> The legislature's approach to funding K–12 education is consistent with the JLARC [Joint Legislative Audit and Review Committee] and national research. The legislature has provided additional funding for teacher salaries, staff development, and smaller classes, with more funding going to support teachers and less for reducing the student-teacher ratio.

In fact, the chart accompanying this study shows that increasing teacher salaries is 4 times more cost efficient than reducing class size, increasing teacher experience is 4.5 times more cost efficient than reducing class size, and increasing teacher education is 5.5 times more cost efficient than reducing class size. Given this information, it is clear that the President of the United States is putting politics ahead of academic achievement for our children.

There is another interesting statement on this subject written in April of this year by Andy Rotherham at the Progressive Policy Institute, an arm of the Democratic Leadership Council. He now, incidentally, works for the President. But he wrote in April:

> . . . President Clinton's $1.2 billion class-size reduction initiative, passed in 1998, illustrates Washington's obsession with means at the expense of results and also the triumph of symbolism over sound policy. The goal of raising student achievement is reasonable and essential; however, mandating localities do it by reducing class sizes precludes local decision-making and unnecessarily involves Washington in local affairs.
>
> During the debate on the Clinton class-size proposal, it was correctly pointed out that research indicates that teacher quality is a more important variable in student achievement than class size. In fact, this crucial finding was even buried in the U.S. Department of Education's own literature on the issue.

Finally, another quite liberal organization, the Education Trust, agrees that we cannot afford to make schools hire unqualified teachers. Kati Haycock, executive director of the Education Trust, said yesterday:

> The last thing American children need—especially low-income children—is more underqualified teachers. If the White House hopes to ensure that the Class Size Reduction program will boost student achievement, it should accept the Congressional Republicans' proposal that would allow only fully qualified teachers to be hired with these funds.
>
> Teacher quality matters, and it matters a lot. Highly qualified teachers can help all students make significant achievement gains, while ineffective teachers can do great

and lasting damage to students. The difference between an effective teacher and an ineffective teacher can be as much as a full grade level's worth of academic achievement in a single year. That—for many students—can make the difference between an assignment to the ''honors/college prep track'' and an assignment to the remedial track. And that assignment can be the difference between entry into a selective college and a lifetime at McDonald's.

Yes, small classes matter, but good teaching matters more. Our kids can have it all—smaller classes and better teachers. But first, the adults in Washington need to put aside the partisan bickering and remember what really matters—the best interests of American students.

This is exactly what we are trying to do. It is what we are trying to do in this last great appropriations bill: Saying yes, more teachers is a very important priority, but school districts ought to be able to decide that perhaps teacher training is even more important than that, or perhaps there is another higher education priority in their schools, in their communities, in their States.

Tomorrow, when we debate whether or not to add to this bill the Teacher Empowerment Act, we will be doing exactly the same thing, saying we in this body in Washington, DC, do not know all the answers, that there is not one answer for 17,000 school districts across the country; and we ought to trust the people who are spending their lives educating our children.

This is a vitally important debate, and one that the children can only win if we grant flexibility to those who are providing them with that education.

SENATOR LUGAR'S 9,000TH VOTE

Mr. LOTT. Mr. President, I bring to the attention of the Senate that today the senior Senator from Indiana cast his 9,000th vote as a Member of this body.

Throughout his career, Senator LUGAR has compiled a 98 percent voting attendance record. He did not miss a single vote during the entire 105th Congress. Along with our colleagues from Maryland, Senator SARBANES, and Utah, Senator HATCH, Senator LUGAR stands next in line to join the Senate's 10,000 vote club. A mark reached by only 21 Senators in history.

Many of you know of Senator LUGAR's passion for long-distance running. On occasion, a vote has been called while he was on one of his late afternoon runs on the Mall. Senators are not surprised when they encounter their colleague from Indiana in running shoes after double-timing back to the Senate Chamber for the vote. Casting 9,000 Senate votes is a fitting accomplishment for a long-distance runner who already stands as the longest-serving U.S. Senator in Indiana's history.

I am honored to have the opportunity to work with Senator LUGAR and pleased to recognize him on this historic milestone.

THE SATELLITE HOME VIEWER ACT

Mr. GRAMM. Mr. President, I rise to speak for a moment about another subject. I do not want to interfere with this important debate, but I think the subject I want to speak about is important in its own right. I want to put my colleagues and the public on notice about what is happening.

Probably we have all received more telephone calls and more letters on the so-called Satellite Home Viewer Act than any issue we have dealt with in this Congress. This is an issue that flows from the fact that people who have satellite dishes, especially people who live in the country, want to have access to their nearest television station. It is something we all understand. For those of us who live in the country, it is something we want.

The House of Representatives adopted a very good bill that would allow negotiations between satellites and local television stations with a goal of bringing the local television station into every living room and den in America. This would be a great boon to people who have satellite dishes in rural areas.

That bill was adopted in the House 422 to 1 on April 27. On May 20, the Senate unanimously adopted a similar bill. These bills are very strongly supported. We are all getting hundreds of telephone calls in support of them. They do what each caller wants, and that is make it possible for people, especially in rural areas, who have satellite dishes to get the news and the weather from the local station, however far away that may be.

The problem is, for some unexplainable reason—at least unexplainable to logic—in the conference, rather than adopting the House bill or the Senate bill or something in between, the conferees apparently decided that not every problem in the world was solved, and therefore in an effort to try to solve problems which were not part of either bill, they decided to put the American taxpayer on the hook for a $1.25 billion loan guarantee.

I want to make it clear. This loan guarantee was not part of the Senate bill for which we voted unanimously. It was not part of the House bill that passed 422 to 1. It was produced out of whole cloth in conference when the basic idea was there are additional problems that might be dealt with, so as a result, we want to simply add $1.25 billion.

When you approach the people who added it, you get the idea this is somehow for small business. But when you read their bill, one of the loans can be as large as $625 million. The two obvious beneficiaries are two companies, one of which saw its equity value go up 4½ times the rate of the growth of the Dow Industrial Index over the last 12 months; the other one saw its equity value go up 49 times as fast as Dow did in the last 12 months.

You might wonder why these two extraordinarily successful businesses with an explosion in their equity value, as measured by the value of common stock, suddenly need the taxpayer to come forth and sign a loan guarantee of $1.25 billion to get to the bottom line. I am for the satellite bill. I voted for it in the Senate. I would like to see it passed. I think it is an important piece of legislation. But I am adamantly opposed to Members of the House and the Senate simply deciding to put the taxpayer on the hook for $1.25 billion, with a provision that was in neither the House bill or Senate bill, a provision that cannot be justified by any logic whatsoever.

I want to make it clear if that bill comes to the floor of the Senate and it has that loan guarantee in there obligating the American taxpayer for $1.25 billion, money that was not in the House bill, was not in the Senate bill, I intend to object to its consideration, and it will not become law in this millennium.

I cannot speak beyond this thousand years. But I can assure you that under the rules of the Senate, it will not become law before the turn of the new millennium, if then.

One of the authors of this provision, referring to me, said:

I don't think anybody would want to have the reputation of having cost millions of Americans the loss of their network signal, so I don't anticipate problems on either floor.

My response to our colleague in the House is: Anticipate problems on the floor of the Senate. And if anyone is endangering the ability of Americans to get the local television signal, it is not me; it is those who have added a $1.25 billion loan guarantee in this bill.

I know there are going to be a lot of people calling my office and others. Here is my message: If you are for the satellite bill, if you want to be able to get your local television station, don't bother calling me. Call the people who want to add to a conference report this $1.25 billion giveaway which was not voted on in either House of Congress, and say to them: Quit trying to give my money away and give me my local television signal.

I am not going to let this bill be adopted this year with that $1.25 billion giveaway in it. It is not too late. The conferees can come to their senses and take this provision out. It was not in either bill. It should not have been there to begin with. We can have the satellite bill passed by the end of tomorrow's business. But if it is not taken out, it is not going to be adopted. I wanted to come over and make that clear so everybody would know exactly where we are. If you want this bill, insist the $1.25 billion giveaway be taken out of it. We have the ability and we should make it possible for people in the country to get the adjacent cities' TV stations. I am for that. I am a direct beneficiary of it. Many of the people I care about are.

But the idea we are talking about giving away $1.25 billion in loan guarantees to some of the most well-off companies in America as a rider on this bill is the kind of outrageous legislative action that has to be stopped. If they think because the underlying bill is so popular that everybody is just going to turn the other way and let this $1.25 billion giveaway occur, they are wrong. I do not intend to do that. It is not going to pass the Senate unless they take it out.

I yield the floor.

ORGAN DONATION REGULATORY RELIEF ACT

Mr. TORRICELLI. Mr. President, I rise today to address a potential crisis in our nation's system of organ donation. Last year, the U.S. Department of Health and Human Services (HHS) proposed regulations that would have had devastating effects on community-based transplant programs by prohibiting states from offering organs to their own sickest residents before making them available nationwide. In response to the overwhelming concerns of patients and health care professionals nationwide, Congress delayed the implementation of the regulations and commissioned a study by the Institute of Medicine to examine the impact of the regulations on the nation's current system.

The study drew several conclusions which demonstrate how the current system is effective and why the proposed regulations are misguided. For example, the study found that the current system of organ transplantation is reasonably equitable and effective for the sickest patients. It also found that the proposed regulations would increase the overall cost of transplantation in the U.S. Perhaps most important, the study found that the current system does not discriminate because of race or any other factors and that the waiting list for an organ transplant are treated fairly.

These conclusions support the long-held concerns of the organ transplant community that the regulations, which would direct the United Network for Organ Sharing (UNOS) to develop a system which removes geography as a factor in organ donation, may actually increase waiting times in states, like New Jersey, with efficient systems.

These unintended consequences will be felt most greatly among patients with disadvantaged backgrounds. In New Jersey, we are extremely fortunate to have a system that is fair and efficient. New Jersey's unique system of certificate of need and charity care ensures that the most critical patients get organs first regardless of insurance. A national organ donation system will force the smaller transplant centers that serve the uninsured and underinsured to close as the vast majority of organs go to the handful of the nation's largest transplant centers with the longest waiting lists. Without access to smaller programs, many patients will be faced with the hardship of registering with out-of-state programs that may turn them away due to lack of insurance. Those who are accepted will be forced to travel out of state at great medical risk and financial hardship.

In light of these concerns, the conferees of the FY 2000 Labor, Health, and Human Services, and Education bill included language extending the moratorium on the regulations for a period of three months. While this is a very positive step, I am concerned that this moratorium would not provide sufficient time for Congress to consider this issue as part of the debate on the reauthorization of the National Organ Transplant Act.

I am pleased to join my colleagues Senators SESSIONS, HUTCHINSON, WARNER, MACK, SHELBY, NICKLES, INHOFE, THURMOND, ASHCROFT, MCCONNELL, ROBERTS, KOHL, FEINGOLD, CLELAND, HOLLINGS, BREAUX, GRAHAM, COLLINS, GRAMS, LAUTENBERG, ENZI, MURSKOWSKI, GORTON, LANDRIEU, ROBB, and LINCOLN to introduce the Organ Donation Regulatory Relief Act of 1999.

This bipartisan legislation will delay the Secretary's ability to issue regulations regarding the nation's organ donation system until Congress considers the complex issues surrounding organ procurement and allocation as part of the reauthorization of the National Organ Transplant Act.

For the past 15 years, the national organ procurement and allocation system has existed without federal regulation. During this time, each State has developed a unique system to meet their individual needs. Many states, such as New Jersey, have focused on serving uninsured and underprivileged populations. Clearly improvements can be made to increase the efficiency and effectiveness of organ donation nationwide. The legislation will ensure Congress has ample time to consider these important issues prior to allowing the implementation of far-reaching regulations that will revamp the system.

FOREST FIRES IN EASTERN MONTANA

Mr. BURNS. Mr. President, when a hurricane engulfs the Eastern seaboard or an earthquake shatters the lives of Californians, we reach out with compassion to those people who are affected. America's hearts and minds always turn to those who are adversely impacted by these events.

I bring to your attention a devastating natural disaster that recently struck the Eastern portion of my home State, Montana. On Halloween night, it seems as if Mother Nature played a frightening trick on many rural Montanans. A storm below out of the Rocky Mountains and onto the plains of the short grass prairie with winds in excess of 70 miles per hour.

These violent winds stoked several prairie fires. The wild fires immediately became uncontrolled infernos as they are driven along by the gusts, in some cases the wall of flames spanning many miles.

The tiny town of Outlook, MT, was evacuated in the face of this unmanageable fire. Unfortunately, the town itself was laid to waste in the wake of the flames. Thankfully, due to the early evacuation and quick response of the authorities, no lives were lost.

Two hundred and fifty miles south of Outlook another town was facing the same fate. The rural community of Ekalaka was also under evacuation orders. A different fire of the same magnitude was moving toward town as it was swept ahead of the horrific winds. This fire spared the community but still left ruin in its wake. It is estimated that ten to twenty sections of good winter grazing land has been destroyed along with miles of fences and corrals. That is between 6,400 and 12,800 acres that producers will not be able to use for winter feed. The increased costs of buying hay to feed livestock will put a great burden on ranchers already experiencing financial hardship within their industry.

Not only were these two communities impacted, there were several other communities in Eastern Montana that sustained damage due to fires. I offer my sincere gratitude to all of those who worked so diligently to fight these fires and save property and lives.

We now have Montanans facing the onset of winter, homeless, without the security of their places of business, and agricultural producers, without feed for their livestock. Just as we unite together for those who are struck by other natural disasters, I hope that you will join with me in support of these Montanans, who lost not only their homes but their livelihoods.

Entire communities have been adversely affected by this unforeseen emergency and I will be watching closely to see that these folks receive the aid needed to rebuild their lives. Montanans have suffered great losses no less devastating than the hurricanes on the East Coast and they too deserve a helping hand in their time of need.

My thoughts and prayers go out to each and every individual whose lives are in disarray due to this sudden tragedy.

COST ESTIMATE ON EXPORT ADMINISTRATION ACT

Mr. GRAMM. Mr. President, I ask unanimous consent that a cost estimate on the Export Administration Act of 1999, prepared by the Congressional Budget Office, be printed in the CONGRESSIONAL RECORD.

There being no objection, the cover letter and estimate were ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 3, 1999.

Hon. PHIL GRAMM,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1712, the Export Administration Act of 1999.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Hadley (for federal costs), Hester Grippando (for governmental receipts), Shelley Finlayson (for the state and local impact), and Patrice Gordon (for the private-sector impact).

Sincerely,

BARRY B. ANDERSON
(For Dan L. Crippen, Director).

Enclosure.

S. 1712—Export Administration Act of 1999

Summary: The bill would replace the expired Export Administration Act (EAA), thereby updating the system for applying export controls on American business for national security or foreign policy purposes. Since the expiration of the EAA in 1994, the President has extended export controls pursuant to his authority under the International Emergency Economic Powers Act. The Bureau of Export Administration (BXA) in the Department of Commerce administers export controls. The bill also would prohibit participation in boycotts imposed by a foreign country against a country that is friendly to the United States, and would preempt state laws pertaining to participation in such a boycott.

CBO estimates that funding the Department of Commerce to carry out the bill would cost $255 million over the 2000–2004 period if funding is maintained at the 1999 level or $280 million if funding is increased each year for anticipated inflation. Because the bill would increase penalties for violations of export controls, CBO estimates governmental receipts would increase by $18 million over the 2000–2004 period. CBO estimates that half that amount would be spent from the Crime Victims Fund, and BXA would pay informants about $500,000 a year. Because the bill would affect direct spending and receipts, pay-as-you-go procedures would apply.

Section 4 of the Unfunded Mandates Reform Act (UMRA) excludes from the application of that act any legislative provisions that are necessary for the national security. CBO has determined that several provisions of S. 1712 fall within that exclusion. One section of the bill that does not fall within that exclusion contains an intergovernmental mandate as defined in UMRA, but CBO estimates that the costs of this mandate would not be significant and would not exceed the threshold established in that act ($50 million in 1996, adjusted annually for inflation). Provisions of the bill that are not excluded from the application of UMRA also contain private-sector mandates. CBO estimates that the direct costs of those mandates would be below the threshold established in UMRA ($100 million in 1996, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of the bill is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

	By fiscal years, in millions of dollars—					
	1999	2000	2001	2002	2003	2004
CHANGE IN REVENUES AND DIRECT SPENDING						
Estimated Revenues	0	0	0	6	6	6
Estimated Budget Authority	0	0	0	1	4	4
Estimated Outlays	0	0	0	1	4	4
SPENDING SUBJECT TO APPROPRIATION						
EAA Spending Under Current Law by the Bureau of Export Administration:						
Budget Authority [1]	44	0	0	0	0	0
Estimated Outlays	43	6	2	0	0	0
Proposed Changes:						
Estimated Authorization Level [2]	0	59	56	57	59	61
Estimated Outlays	0	50	53	57	59	61
EAA Spending H.R. 973 by the Bureau of Export Administration:						
Estimated Authorization Level [1]	44	59	56	57	59	61
Estimated Outlays	43	56	55	57	59	61

[1] The 1999 level is the amount appropriated for that year. BXA has not yet received a full-year appropriation for 2000.

[2] The estimated authorization levels include annual adjustments to cover anticipated inflation, resulting in an estimated cost of $280 million over the next five years. Alternatively, if funding is not increased to cover anticipated inflation, the cost would be $255 million over the 2000–2004 period.

Basis of estimate: S. 1712 would authorize the BXA to control the export of certain items from the United States for national security or foreign policy purposes. Generally, export controls would not apply to products that are mass-market items or available from foreign sources at a comparable price and quality. Under the bill, exporters who are executing existing contracts that involve items which are prohibited from being exported for foreign policy reasons would be allowed to fulfill such contracts. CBO estimates that provisions of the Export Administration Act of 1999 would increase revenues by about $6 million a year beginning in fiscal year 2002 and direct spending by about $1 million in 2002 and $4 million a year thereafter. In addition, we estimate that implementing the bill would cost $280 million over the 2000–2004 period, assuming appropriation of the necessary amounts.

Revenues

Since the expiration of the EAA in 1994, criminal and civil penalties for violating export control laws have been collected under the Economic Emergency Powers Act. The bill would transfer the authority to levy fines back to the EAA and would significantly raise the maximum criminal fines that could be imposed—up to $10 million for corporations or $1 million for individuals—for violation of export controls. Under the bill, civil penalties of up to $1 million could also be imposed for violations of the law. On average, about two years elapse between the initial investigation of violations of export control law and the collection of a penalty. Fines are based on the law in force at the start of an investigation. CBO does not expect penalties under the new law to be collected until fiscal year 2002. Based on information from the Department of Commerce, CBO estimates that enacting the bill would increase receipts from penalties by $6 million a year beginning in 2002.

Direct spending

Collections of criminal fines are recorded in the budget as government receipts (i.e., revenues), which are deposited in the Crime Victims Fund and spent in subsequent years. We estimate half of the increase in governmental receipts attributable to this bill ($3 million a year), would be for criminal fines. Thus, the additional direct spending for this provision of the bill also would be about $3 million a year beginning in 2003, because spending from the Crime Victims Fund lags behind collections by about a year.

Under current law, BXA pays informants negligible amounts each year for leads on possible violations of export control law. The bill would allow BXA to pay informants the lesser of $250,000 or 25 percent of the value of fines recovered under the act as a result of the information provided. This provision would greatly expand the authority to pay informants. Based on information from BXA, CBO estimates that the bureau would pay informants about $500,000 a year, starting in 2002.

Spending subject to appropriation

BXA is responsible for implementing the EAA. Based on information from the Department of Commerce, CBO estimates that BXA's budget for this work was about $44 million in 1999, and about $45 million would be needed in 2000 to continue this work. S. 1712 would authorize the appropriation of such sums as may be necessary to continue this work, to hire 20 employees to establish a best practices program for exporters, to hire 10 overseas investigators, and to procure a computer system for export licensing and enforcement. Based on information from BXA, CBO estimates that implementing a best practices program for exporters would cost about $4 million a year, stationing overseas investigators would cost about $5 million a year, and procuring the computer system would cost about $5 million in 2000. Any such spending would be subject to appropriation of the necessary amounts. Assuming historical spending patterns and allowing for cost increases to cover anticipated inflation, CBO estimates that implementing the bill would cost $280 million over the 2000–2004 period.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted.

	By fiscal years, in millions of dollars—									
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in outlays	0	0	1	4	4	4	4	4	4	4
Changes in receipts	0	0	6	6	6	6	6	6	6	6

Estimated impact on state, local, and tribal governments: Section 4 of the Unfunded Mandates Reform Act excludes from the application of that act legislative provisions that are necessary for the national security. CBO has determined that several provisions of S. 1712 fall within that exclusion. One section of the bill that does not fall within that exclusion contains an intergovernmental mandate as defined in UMRA. That section would preempt a state or local government's ability to participate in, comply with, implement, or furnish information regarding restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries. Because state and local governments would not be required to take any

action, however, CBO estimates that the cost of this preemption would be insignificant.

Estimated impact on the private sector: Section 4 of UMRA excludes from the application of that act legislative provisions that are necessary for the national security. CBO has determined that several provisions of S. 1712 fall within that exclusion. Provisions of the bill that do not fall within that exclusion contain private-sector mandates as defined in UMRA.

By replacing the expired Export Administration Act, the bill would impose private-sector mandates on exporters of items controlled for foreign policy purposes. (At the same time the bill would put into place certain new procedural disciplines on the President in the implementation of such controls.) In addition, S. 1712 would impose a mandate by prohibiting anyone, with respect to that person's activities in the interstate or foreign commerce of the United States, from participating in boycotts imposed by a foreign country against a country that is on good terms with the United States.

The bill also would make changes in the system of foreign policy export controls that would lower costs to the private sector of complying with requirements under that system. In particular, S. 1712 would restrict the use of foreign policy export controls on agricultural commodities, medicine, or medical supplies. According to information provided by several government and industry sources, the nonexcluded provisions of the bill would largely either codify current policies with respect to export controls or make reforms that could reduce requirements on exporters of controlled (and de-controlled) items. Thus, CBO expects that the direct costs of complying with private-sector mandates in the bill would fall well below the statutory threshold established in UMRA ($100 million in 1996, adjusted annually for inflation).

Estimate prepared by: Federal Costs: Mark Hadley. Federal Receipts: Hester Grippando. Impact on State, Local, and Tribal Governments: Shelley Finlayson. Impact on the Private Sector: Patrice Gordon.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

HATE CRIME VIOLENCE

Mrs. FEINSTEIN. Mr. President, a few weeks ago, I met with Alan Stepakoff, the father of six-year old Joshua, who was among five victims—three children ages 5 and 6; one 16-year old teenager and a 68-year old adult—gunned down at a Los Angeles Jewish community center last August by Buford Furrow, Jr., a white supremacist. Fortunately, the son and the four other victims survived the shooting and are on their way to recovery. Unfortunately, within minutes of this tragic shooting, the Nation learned that the same assailant had murdered in cold blood U.S. Postal Service carrier Joseph Ileto, a Filipino American, on account of his race.

This episode is but one of a growing list of hate crimes targeting places once believed to be safe havens—including schools, synagogues, churches, community centers. This incident is a grim reminder of how hate can provoke violence against the young and innocent. Unless we address this hatred and violence in our communities immediately and unequivocally, the list of such horrific events will certainly grow.

We have before us legislation that would address this growing blight on our society: the Hate Crimes Prevention Act of 1999. This important legislation was introduced by my colleague Senator KENNEDY and adopted by the Senate as part of Fiscal Year 2000 Commerce, Justice, State Appropriations Act.

Unfortunately, the measure was stripped from the first Commerce, Justice, State appropriations bill presented to the President. I urge my colleagues to insist on this provision's inclusion in the next such bill.

This legislation is urgently needed to compensate for two limitations in the current law. First, even in the most blatant cases of racial, ethnic, or religious violence, no federal jurisdiction exists unless the victim was targeted while exercising one of six federally protected activities—attending a public school or college; participating in a service or program sponsored by a state or local government; applying for or engaging in employment; serving as juror in a state court; traveling or using a facility of interstate commerce; and enjoying the goods or services of certain places of public accommodation.

These limitations have led to acquittals in several of the cases in which the Department of Justice has determined a need to assert federal jurisdiction and has limited the ability of federal law enforcement officials to work with state and local officials in the investigation and prosecution of many incidents of brutal, hate-motivated violence.

A second limitation in current law is that it provides no coverage whatsoever for violent hate crimes committed because of bias based on the victim's sexual orientation, gender or disability. As a result, federal authorities cannot prosecute individuals who commit violent crimes against others based on these characteristics. This is especially disturbing given the fact that according to the FBI, crimes against gays, lesbians and bisexuals ranked third in reported hate crimes in 1998, registering 1,260 or 15.6 percent of all reported incidents. Unfortunately, there are those who would stop short of supporting this important legislation because it extends protections to those targeted on account of their sexual orientation.

The hate crimes legislation introduced this year would remedy would expand the legislation I authored in 1994, which provided a bifurcated trial and enhanced penalties for felonies spawned by hate that took place either on federal land or in pursuance of a federally protected right (such as voting or attending a public school).

The Hate Crimes Protection Act broadens federal jurisdiction to cover all violent crimes motivated by racial or religious hatred, regardless of whether the victim was exercising a federally protected right. It would also include sexual orientation, gender and disability to the list of protected categories within current federal hate crime law, provided there is a sufficient connection with interstate commerce.

At the same time, federal involvement would only come into play if the Attorney General certifies that federal prosecution is necessary to secure substantial justice. In recent years, the existing federal hate crimes law has been used only in carefully selected cases where the state criminal justice system did not achieve a just result.

For many years I have been deeply concerned about hate crimes and the immeasurable impact they have on victims, their families and our communities. As I have previously mentioned, in 1993 I sponsored the Hate Crimes Sentencing Enhancement Act, which was signed into law in 1994 as a part of the Violent Crime Control and Law Enforcement Act of 1994. Today, I believe the Hate Crimes legislation will build on this effort by modifying the current laws to allow the federal government to provide the vital assistance to states in investigating of crimes of this magnitude.

Sadly, hate crimes are becoming too commonplace in America. According to the U.S. Department of Justice, in 1998, 7,775 hate crime incidents were reported in the United States and 9,722 victims. Of that total, 4,321 or 58 percent of the crimes were committed on account of the victim's race. More than 3,660 victims of anti-Black crimes; 1,003 victims of anti-White crimes, 620 victims of anti-Hispanic crimes; and 372 victims of anti-Asian/Pacific Islander crimes.

In that same year, 1,390 or roughly 16.0 percent of the victims were targeted because of their religious affiliation. The number of anti-Jewish incidents is second only to those against blacks and far exceeds offenses against all other religious groups combined. Moreover, while by most accounts anti-Semitism in America has declined dramatically over the years, the level of violence is escalating.

Civil rights groups as well as federal and State authorities agree that in the last five years, reported hate crimes have increased annually, from 5,932 in 1994 to 7,755 in 1998. As of 1998, four States still do not collect hate crime data. Yet, even if all States were reporting these incidents, it would be difficult to gauge the true extent of the hate crime problem in this country because bias-motivated crimes typically are under reported by both law enforcement agencies and victims.

And while these crimes have become more numerous, they have also become more violent. Monitoring groups have observed a shift from racially-motivated property crimes, such as spray painting, defacement and graffiti, to personal crimes such as assault, threat and harassment. On a national scale, according to FBI statistics, almost 7 out of 10 hate crimes are directed against people. Nonhate crimes, by

contrast, are directed against people only 11 percent of the time.

This legislation is long overdue. Looking back on this year alone, one might recall the litany of news stories describing a murderous rampage at a school in Littleton, Colorado; or the drive-by shooting attacks on Jews, an African-American, and Asian-Americans in Chicago, Illinois; or the two pipe-bomb explosions at the predominantly African American Florida A&M University; the brutal murders of two gay men in California; or the torching of synagogues in California; all despicable acts of virulent hatred.

We should work to give our citizens protection from those who would do them harm simply based upon their race, religion, gender, disability, or sexual orientation. Enactment of the Hate Crimes Prevention Act would send a message to our nation and the world that the singling out of an individual based on any of these characteristics will not go unnoticed or unpunished.

Mr. President, I urge my colleagues to enact this important legislation prior the end of this session.

SUPERFUND TAX RENEWAL

Mr. ENZI. Mr. President, I stand again in opposition to a proposal from my Democratic colleagues that attempts to renew the expired Superfund tax for the sole purpose of raising revenue to meet budgetary targets. We are once again faced with a policy which advances spending for social programs on the backs of small business owners and municipalities without any attempt to reform the current program.

I am puzzled at this current proposal for several reasons. First, it is estimated that the Superfund Trust Fund has maintained a surplus of $1.5 billion. In addition, appropriation committees in the House and Senate have allotted $700 million in general revenue to supplement funding for the program through Fiscal Year 2000. According to an analysis conducted by the Business Roundtable, it is estimated that the Superfund Trust Fund will have sufficient funding through 2002 without the need for further taxes.

Even without the imposition of taxes, contributions to the Superfund Trust Fund are plentiful. In 70 percent of all sites responsible parties paid cleanup costs in addition to reimbursing the EPA for its oversight expenditures. These payments, and the collection of all related costs to the EPA, are applied to the Trust Fund. In the remaining 30 percent of cases, the responsible parties pay the EPA to scrub the contaminated site in addition to paying for oversight costs. According to the Chemical Manufacturers Association, only 3 out of 150 sites required sole payment from general revenues because the parties involved either abandoned the site or were bankrupt.

The premise behind the initial creation of the Superfund program was to facilitate a rapid cleanup of hazardous waste sites nationwide, with the responsible parties largely funding the site cleanup. This is a relatively simple and logical concept known as the ''polluter pays'' principle.

Secondly, the EPA has admitted that the Superfund program is drawing to a close. Under such conditions, there is no compelling reason to reinstate a tax to fund a program which is not only flawed, but is being phased out.

I ask my colleagues to heed the advise of numerous business and taxpayer organizations that oppose the reinstatement of the superfund tax in the absence of overall reform. I ask unanimous consent that the letters from the following organizations be printed in the Record:

U.S. Chamber of Commerce, American Petroleum Institute, The Business Roundtable, American Insurance Association, and Americans for Tax Reform.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICANS FOR TAX REFORM,
Washington, DC, October 28, 1999.

Hon. BILL ARCHER,
Committee on Ways and Means, Washington, DC.

DEAR CHAIRMAN: I am writing to support your publicly-stated opposition to the imposition of any new taxes related to potential Superfund reform legislation pending in the House of Representatives. At a time when the non-Social Security budget surplus is projected to grow as high as $1 trillion, Congress should not be raising taxes to pay for more government spending.

Furthermore, the Corporate Environmental Income Tax (CEIT) that expired in 1995 is a direct tax on corporate income. Thus, if any one of the 209 of Members of the House Republican Conference who signed the Americans for Tax Reform pledge not to raise new personal or corporate income taxes were to vote for them, they would be in direct violation of their signed pledge.

The House of Representatives has correctly rejected President Clinton's proposal for new taxes on at least three different occasions, most frequently by passing the Sense of Congress that Congress should not raise taxes to pay for more government spending. We hope that this steadfast opposition to any new tax increases continues in the debate over reform of the Superfund program.

In summary, no new taxes means no new taxes, and we support your position not to raise any taxes to pay for more spending.

Sincerely yours,

GROVER G. NORQUIST.

THE BUSINESS ROUNDTABLE,
Washington, DC, October 19, 1999.

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

DEAR MR. SPEAKER: The Business Roundtable is opposed to renewal of the Superfund taxes for purposes of raising revenue to meet budgetary targets. By law the Superfund Trust Fund was intended to be dedicated to cleaning up sties on the National Priorities List (NPL) and not for other budgetary purposes. The Superfund is funded both by Superfund taxes, but also from recovery of cleanup costs from responsible parties. Members of The Business Roundtable fall significantly in both categories.

We strongly believe that the taxes, which expired in 1995, should not be renewed for the following reasons:

1. The Superfund Trust Fund has an estimated surplus of $1.5 billion. In addition, both the House and Senate appropriations committees have allotted $700 million in General Revenues to supplement funding for the Superfund program through fiscal year 2000. Under our analysis, we estimate Superfund will have sufficient funding through the year 2002 without renewal of the taxes.

2. Under the Superfund law's liability scheme, responsible parties largely fund site cleanup regardless of the imposition of taxes. The preponderance of funding for Superfund is driven by the law's liability scheme, not from taxes. Most ''deep pocket,'' responsible parties contribute well in excess of their actual fair share of responsibility. Where EPA spends money from the Trust Fund for cleanup, these expenditures are also in large measure recovered from responsible parties.

3. The Business Roundtable continues to support the principle that Superfund taxes be tied to comprehensive Superfund reform, including Natural Resource Damages. Both the House Transportation and Infrastructure Committee and the House Commerce Committee have reported reform bills. ''Regular order'' would suggest that any future federal funding of superfund be tied to an assessment of the impact of these reforms on the future of the program. Taxes should not be renewed absent comprehensive reform, and the current bills need to be evaluated against this criterion. In particular we would note that at this point the legislation is silent on Natural Resource Damages, which we believe must be reformed.

4. Finally, both House and Senate Appropriations for EPA include directives for a study of the costs to cleanup the remaining sites on the NPL and bring the Superfund program to successful closure. We support such an analysis to determine what the actual cost estimates are for Superfund. Under an earlier Roundtable analysis we concluded that it would be feasible to finance the current program at a rate of about 20 to 30 new sites per year (historical average) with an endowment representing approximately four years worth of funding (historical tax rates). There is no compelling reason to reinstate the taxes at their full rate for five years to fund a program which is phasing down. Nor should funding be renewed absent completion of the analysis directed by both House and Senate committees.

We urge you to resist any efforts to reinstate Superfund taxes for budgetary purposes, absent the Congressionally directed evaluation of future program costs and reform legislation, which includes Natural Resource Damages.

Thank you for your consideration.

Sincerely,

ROBERT N. BURT,
Chairman, The Business Roundtable Environmental Task Force, Chairman and CEO, FMC Corporation.

AMERICAN INSURANCE ASSOCIATION.

Hon. J. DENNIS HASTERT,
Speaker of the House,
U.S. House of Representatives, Washington, DC.
Hon. RICHARD A. GEPHARDT,
Minority Leader, U.S. House of Representatives.
Hon. TRENT LOTT,
Senate Majority Leader, U.S. Senate.
Hon. THOMAS A. DASCHLE,
Senate Minority Leader, U.S. Senate, Washington, DC.

DEAR MR. SPEAKER, MR. LEADER, MR. GEPHARDT, AND MR. DASCHLE: In recent days proposals have been made to reinstate the expired Superfund taxes to provide revenue offsets for non-Superfund spending—such as the tax extenders bill now under consideration—without enacting meaningful Superfund reform. In addition, as this session of Congress

draws to a close, there may be separate attempts to attach to unrelated legislation Superfund liability carveouts that shift cleanup costs to parties who remain liable at Superfund sites. We are writing to express our continued strong opposition to both of these proposals.

No Superfund Taxes Without Meaningful Superfund Reform.

Reinstatement of the expired Superfund taxes prior to enactment of meaningful Superfund reform would effectively prevent legislative reform of the Superfund program. That's because under the ''pay-go'' rules of the Federal budget laws, any Superfund reauthorization bill that includes mandatory spending provisions must also include provisions to reinstate the expired Superfund taxes or provide equivalent offsetting revenues ''within the four corners of the bill'' to keep it deficit neutral. Thus, if the Superfund taxes were to be enacted prior to consideration of a Superfund reform bill, Superfund reform could not be enacted without finding a new source of revenue, essentially an impossible task.

The taxes should not be prematurely reinstated, especially now that legislative reform of the Superfund program is within our reach. On August 5th the House Transportation and Infrastructure Committee voted 69–2 to report H.R. 1300, the Recycle America's Land Act, introduced by Subcommittee Chairman Sherry Boehlert. That bill now has some 138 cosponsors, divided nearly equally between Democrats and Republicans. The House Commerce Committee is expected to mark up a similar bill, Mr. Greenwood's H.R. 2580, in the next few days.

In the meantime, the Superfund program does not need reinstatement of the taxes to continue operating at full speed. The current surplus in the Superfund Trust Fund, combined with continued appropriations at the most recent level, mean the program will be fully funded through at least FY 2002. In fact, even with enactment of legislative reform, reinstatement of the taxes at the full levels that existed prior to their expiration in 1995 is not necessary. As the Boehlert bill, H.R. 1300, recognizes, any new funding for Superfund should be carefully tailored to reflect the declining needs of the cleanup program, which EPA has acknowledged is winding down.

No Cost-shifting for Liability Exemptions.

We are also concerned that there may be attempts this year (just as there were last year) to provide liability relief for certain parties by inserting amendments into appropriations bills or other legislation. While we do not oppose properly-crafted liability exemptions for small business, municipalities, recyclers, or others, we do oppose exemptions that shift their shares of cleanup costs to the remaining Superfund parties. Under the Boehlert bill, H.R. 1300, these costs would be part of the orphan share paid by the Trust Fund. This is the original purpose for which Congress created the Trust Fund.

There is certainly no justification for shifting these orphan shares to the other parties. In fact, in recent years even EPA has consigned much more of these orphan shares to the Trust Fund. Shifting costs to other parties is not only unfair, it is one of the main causes of litigation and the attendant cleanup delay at Superfund sites.

In sum, we urge you to oppose reinstatement of the expired Superfund taxes without enactment of meaningful Superfund reform. We also urge you to oppose Superfund liability exemptions which shift cleanup costs to other liable parties.

If we can provide assistance or further information on these or other related matters, please do not hesitate to call on us.

Sincerely,

ROBERT E. VAGLEY,
President.

U.S. CHAMBER OF COMMERCE,
AMERICAN PETROLEUM INSTITUTE,
October 8, 1999.

Hon. J. DENNIS HASTERT,
Speaker of the House, U.S. House of Representatives, Washington, DC.
Hon. RICHARD A. GEPHARDT,
House Minority Leader, U.S. House of Representatives, Washington, DC.
Hon. TRENT LOTT,
Senate Majority Leader, U.S. Senate, Washington, DC.
Hon. THOMAS A. DASCHLE,
Senate Minority Leader, U.S. Senate, Washington, DC.

DEAR MR. SPEAKER, SENATOR LOTT, MR. GEPHARDT, AND SENATOR DASCHLE: We are writing to express our concern about possible efforts to reinstate the expired Superfund taxes. Proposals to reinstate the taxes solely as a means of raising revenue without enacting comprehensive reform of the Superfund program are very disturbing to us. Raising taxes on industry runs directly counter to congressional efforts to reduce taxes. Furthermore, the Superfund taxes do not need to be reinstated to keep the program going. Under the most recent appropriations and funding mechanisms, the trust fund will remain solvent for many years as the program begins to wind down. Even by EPA's own admission the Superfund program is drawing to a close.

The Superfund program was created to address a broad problem—paying for the cleanup of ''orphan'' waste disposal sites (those that were either abandoned or whose owners were bankrupt). A wide range of individuals, businesses and government entities have contributed to Superfund sites, therefore general revenues should pay for the program's administrative costs and the clean-up of sites where the responsible parties cannot be found.

In 1995, the Superfund taxes expired. EPA officials claim that using general revenues rather than industry-specific taxes to pay for Superfund would ''constitute paying for polluters' clean-ups on the 'backs' of the American taxpayers.'' That is simply not true. Private sector responsible parties (the so-called ''polluters'') have always paid the majority of cleanup costs associated with the program. In addition, all responsible parties continue to pay their share of Superfund clean-up costs, even though the dedicated taxes have expired. Under CERCLA's strict joint and several liability standard, persons identified as contributing wastes to a Superfund site are paying their share (in addition to the shares of other contributors) of the clean-up costs.

Even without industry tax revenues, Superfund will have sufficient funding from general revenues, fines, penalties, and profits on investments to support the program into Fiscal Year 2002. For fiscal year 2000, the Appropriations Committees have chosen to fund between $700 and $725 million of the Superfund program from general revenues. In fact, Congress can fund the entire program from general revenues, according to the General Accounting Office and the Congressional Budget Office.

Simply stated the Superfund taxes should not be reinstated—instead, general revenues should continue to be used to pay for the program. Reinstating industry-specific taxes is not consistent with Congress' intent for the program, that is, whenever possible, polluters should pay for the costs of cleaning up the sites they helped contaminate. The debate over Superfund should not be about reinstating the taxes. It should be about winding down the program as it completes its original mission and devolving the day-to-day operation of the program to the states.

Sincerely,

RED CAVANEY,
American Petroleum Institute.
THOMAS J. DONAHUE,
Chamber of Commerce of the US.

Mr. ENZI. Mr. President, now is not the time to consider tax increases to pay for government spending, especially at the same time we are experiencing a non-Social Security surplus, projected to grow as high as $1 trillion over 10 years, and at a time when American citizens are paying taxes at the highest peacetime rate in history.

Mr. President, I yield the floor.

SAFEGUARDING OUR SECURITY

Mr. TORRICELLI. Mr. President, there are few matters of more importance to the nation than the safeguarding of our security. Every day, tens of thousands of men and women wear the American uniform proudly in all the world's time zones while guarding against threats to American citizens and our interests. Perhaps there is no more perilous environment in which our servicemen and women operate than beneath the oceans. Because of the secrecy demanded by the myriad missions, Navy submariners have come to be known as the silent service. Often reluctant to speak on their own behalf, I commend to my colleagues attention the following article which is of great importance, not only to our nation's undersea warriors, but to the nation's security.

The commentary in Defense News touches upon an important opportunity. It is the chance to secure more useful life from four Ohio-class submarines slated for retirement. The article suggests the possibility of converting them from their strategic nuclear duties into tactical Tomahawk shooters able to provide our overseas warfighting commanders additional striking capability.

I ask unanimous consent this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Defense News, Mar. 29, 1999]

CONVERTED SUBMARINES COULD BOLSTER U.S. POWER PROJECTION

(By Ernest Blazar)

Power projection can be a difficult concept to understand in the abstract. It is a nation's ability to make its military might felt beyond its borders—as diplomacy's coercive underpinning, deterrence or in actual combat.

American power projection has taken many forms in years past; the man-o-war, expeditionary Marines, the dreadnaughts of the Great White Fleet, the aircraft carrier, the Army's 82nd Airborne division and the Air Force's expeditionary wings. Different crises have demanded different kinds of U.S. power projection at different times.

In recent years, however, U.S. power projection at the lethal end of the spectrum combat has increasingly relied upon a single tool. Since its 1991 Persian Gulf war debut, the Tomahawk cruise missile has become the weapon of choice when crises demand swift and accurate U.S. military response.

They have cleared safe lanes for U.S. warplanes through enemy air defenses. Tomahawks have hit terrorists. And they have destroyed sites thought to hold mass destruction weapons. Over 700 have been used in six different strikes since 1991.

As Tomahawks' use grows so do the strains upon their launch platforms in the shrinking 300-ship fleet. So some in the Navy and Congress are seeking new ways to quickly boost the number of Tomahawk missiles—the power projection tool of choice—available to overseas U.S. commanders.

Attention has now fallen upon four Ohio-class submarines to be retired in 2003 and 2004. A now overdue Navy study to Congress reveals how these Cold War-era submarines, that once aimed nuclear-tipped missiles at the Soviet Union, can easily be converted to carry hundreds of Tomahawk missiles.

Doing so would give the U.S. Central Command in the Persian Gulf, for example, one such submarine year-round, thereby almost doubling the in-theater inventory of Tomahawks. That would take the pressure off other Navy ships needed elsewhere, increase deterrence and strengthen U.S. combat power should strikes be necessary.

The Navy's imminent report has found that the four Ohio-class subs could be fitted with Tomahawks and Navy Sea, Air and Land (SEAL) commando gear for $500 million each. According to New Jersey Senator Robert G. Torricelli, ''It's an inexpensive way of adding a new dimension to U.S. warfighting capabilities.''

All but two of the 24 strategic missiles tubes aboard the Ohio-class boats could be refitted to accept a canister holding six or seven Tomahawk missiles each, yielding a maximum of 154 cruise missiles. If some SEALs are aboard, along with their special gear, only 98–140 Tomahawks could be loaded—still more than any other Navy ship carries.

The full warload—all 154 Tomahawks—can be ''ripple-fired'' from the submerged submarine in less than six minutes. That is key because it allows the submarine to quickly, quietly and safely remove itself from the launch site after firing all its missiles.

A submarine-launched strike of that size offers two main advantages. First, by virtue of its stealth, a submarine can launch a surprise attack from within an enemy's early-warning perimeter. With no advance warning, large numbers of enemy targets can be hit before they are hidden, dispersed or emptied. There is no build-up of U.S. forces to warn an enemy of a pending attack. Second, submarines are less vulnerable to attack and counter-attack than are surface ships. If embarked SEALs are the best weapon for a mission, the converted Ohio-class boats can house 102 such men for short durations and 66 SEALs nearly indefinitely. This allows for a sustained special operations campaign, rather than solitary strikes, from a stealthy, invulnerable platform.

SEALs can also use the submarine's silos that once held nuclear-tipped strategic missiles to store their unique gear. There is ample room for a hyperbaric chamber to recompress divers if needed and a warming chamber which helps SEALs recover from prolonged exposure to cold water. The converted Ohio-class boats could also serve as 'mother-ships' to special underwater SEAL delivery craft like the Advanced Swimmer Delivery Vehicle minisub.

INNOCUOUS

Even though the four converted Ohio-class boats would no longer carry nuclear-tipped missiles, strategic arms control treaty limits would still apply to these boats. This means the ships' missile tubes, now filled with tactical missiles and Navy SEALs, would still be counted against ceilings that cap the number of U.S. and Russian strategic weapons. The Navy's study to Congress has found that, while complex, this issue can be accommodated as has been done before for other strategic missile submarines converted to special, tactical duties.

The nation has a rare opportunity to swiftly and cheaply boost its ability to project power. The conversion of these four Ohio-class boats will complement, not compete with, other Navy ships and Air Force expeditionary warplanes deployed to overseas hotspots. This chance to get new, useful life out of old Cold War-era systems on the cheap is the innovative and right thing to do for the Navy and the nation.

IN HONOR OF SENATOR JOHN H. CHAFEE

Mr. LIEBERMAN. Mr. President, I rise today to speak in memory and tribute to Senator John H. Chafee, who was for me not just a colleague and friend, but a mentor on the Environment and Public Works Committee for the eleven years I have been in the Senate. Nearly every single environmental statute bears the strong stamp of his commitment and leadership; Superfund, the Clean Water Act, the Safe Drinking Water Act, barrier beach legislation, transportation laws, the Oil Pollution Protection Act. The list goes on and on.

When John Chafee first announced that he was not going to run for reelection, a lot of us who care about the environment realized what a great loss John Chafee's retirement would be. Now his sudden death reminds us all too quickly that he was an irreplaceable friend of the environment. He was a very sturdy, forthright, faithful leader at a time when the number of legislators in his great party who consider themselves environmental stewards grew smaller. This trend has been contrary to the proud environmental tradition of the Republican party that goes back to the days of Teddy Roosevelt and contrary to what I find to be the opinion of Republicans in Connecticut who are quite enthusiastically supportive of environmental protection. Senator Chafee held high the banner of that tradition.

He always considered himself a centrist and I know that what he meant by that was not that he was neutral, but that he was committed to bringing different groups and factions within Congress and outside together to get things done. One of my first and best experiences as a Senator was in 1990 when we were considering the Clean Air Act Amendments. Senator George Mitchell, then Majority Leader, pulled a group of us together with representatives of the Bush Administration in his conference room. John Chafee was there day after day, and night after night, throughout long, tedious negotiations. But in the end, he helped put the pieces together for us to adopt a bill signed by President Bush that has clearly made our nation's air healthier and cleaner.

He was also a leader in the effort to protect against global climate change, urging the President to adopt an international framework to address the issue as early as 1988, and supporting the efforts to achieve the signing and ratification of the United Nations Framework Convention on Climate Change. We went to Kyoto, Japan for the critical meetings there to forge further agreements to fulfill the objectives of the Framework Convention agreement. In that difficult setting John sent a message to the countries of the world which were being quite critical of the United States' position, that there was bipartisan support in Congress for taking action to address global warming. He and I then worked together with Senator MACK to sponsor what we thought was a modest proposal in this Congress to begin to give companies that reduce greenhouse gas emissions the promise of credit if and when we adopt a mandatory system for controlling that kind of air pollution. I remember laughing with John that we must be on the right path because our proposal was opposed by both sides of the debate.

John Chafee was the quintessential New Englander; he was a straightforward, very honest, very civil man. He also was a great outdoorsman. I think that some of the work he was proudest of involved his efforts to protect natural resources. He played a critical role in expanding our National Wildlife Refuge System and worked hard to conserve wetlands. He instituted several reforms to tax policy to encourage the preservation of open space. He was a great advocate right up to his death for full and permanent funding for the Land and Water Conservation Fund, which is so important to preserving open spaces in our states.

John Chafee was a good man and a superb chairman. Always respectful to those who came before our Committee, he wanted to get things done. When it came to the environment, he really did get things done. I'll miss him. We'll all miss him. The Lord's good earth will miss him, because he was indeed a good friend. My wife Hadassah joins me in extending condolences to Ginny Chafee and the entire family. We all do truly share in their loss.

TRADE AND DEVELOPMENT ACT OF 1999

Mr. LIEBERMAN. Mr. President, I rise today to make additional remarks on a provision contained in the Manager's Amendment to the Trade and Development Act of 1999 adopted last week by voice vote. The manager's included a Sense of the Senate on Tariff Inversions that has raised some concerns with several of my colleagues. I would like to engage them in a discussion of the issue on the floor of the United States Senate.

There is a company in my state, The Warren Corporation, that specializes in the manufacture of high quality woolen and worsted apparel fabric. This company has been producing luxurious

fabrics for decades and recently invested heavily in the U.S. to become a fully integrated textile mill with a diverse set of manufacturing operations. I mention Warren today because this proud contributor to the New England textile heritage could be adversely affected by a tariff provision recently adopted by voice vote in the Manager's Amendment to the Trade and Development Act of 1999. I would like to call on some of my esteemed colleagues who I am sure have similar concerns in their states. Senator HELMS, is it not true that you have thousands of workers in the textile industry that could be adversely affected by this legislation.

Mr. HELMS. Mr. President in responding to the distinguished Senator from Connecticut, it is certainly true that North Carolina is the largest of the nation's textile and apparel states in terms of employment. In fact, North Carolina employs over 200,000 workers in this industry, many of which are directly involved in wool fabric production. For that reason, I share his deep interest in this wool fabric issue. I want to make it clear that any such legislation would institute a unilateral tariff reduction on the part of the U.S. I do not believe that it is wise policy for the U.S. to simply reduce important tariffs and gain nothing in return. These same fabric makers are essentially precluded from shipping their products to many key markets overseas. My point is simply, if we want to consider reducing these duties, it would be better done as part of the upcoming World Trade Organization talks later this month in Seattle. At the very least, in that forum we would have the ability to gain some reciprocal market access to our manufacturers.

Mr. DODD. Mr. President, I rise to also express my concern in regard to this wool fabric issue. Like my colleague from Connecticut, I have great respect for the workers and employers in the textile sector in my state. In particular the Warren corporation was mentioned. Eleven years ago, this company invested over $40 million in an abandoned textile factory in Stafford Springs, Connecticut. For several years they operated at a loss as they fought for market share here in the U.S. However, they understood that if they produced a quality product at reasonable price, they would succeed. Today they are one of the most respected suppliers of fine grade wool fabrics in the world, and they are providing nearly 300 jobs in a depressed area of my state. This is the type of investment and the type of jobs that we want to attract to our region. As a result, we in Congress need to be very careful about proposals that would cut the legs out from under a company such as Warren. Instead of unilaterally cutting their tariffs, we should be searching for ways to further encourage such investment.

Mr. CAMPBELL. Mr. President, I too have an interest in this matter, but from a different angle. The U.S. fabric industry consumes virtually all the wool fiber produced in the United States. My home state is a significant producer of wool. If we approve legislation that damages fabric makers, it will have a direct and adverse impact on wool growers. The growers in my state are already suffering from surging imports of lamb meat. In addition, the price of their wool has been severely depressed due to the fact that wool from Australia and New Zealand is routinely dumped on the world market. As a result, I am on the record as strongly opposing any legislation that cuts U.S. wool fabric duties. It is critical that in the discussions of this issue members from the wool producing regions are fully informed and involved. We simply cannot accept a move that would take steps to appease suit makers without fully understanding and considering the impact of such legislation all the way down the chain—from fabric makers to wool growers.

Mr. THOMAS. Mr. President, I rise to fully support the remarks of my colleague from Colorado. The wool fiber industry in my state is critical to our overall state economy,

Mr. LIEBERMAN. And Senator THOMAS, am I correct in noting that 23 distinguished members of this body submitted a letter to the Chairman of the Finance Committee earlier this year expressing concern over legislation that would threaten domestic textile producers?

Mr. THOMAS. That is correct. I was one of 23 signatories of a letter dated April 16, 1999, that provides several reasons why unilateral tariff reductions should be avoided. First, wool fabric similar to the foreign imported product, subject to tariffs, is already available from domestic producers. Second, this is not the appropriate time to address accelerated tariff reductions as wool fabric tariffs are currently being reduced at the multilateral level. U.S. producers and textile companies have made investments and based business decisions on trade negotiations that were reached under the North American Free Trade Agreement (NAFTA) and the World Trade Organization (WTO). If we are to consider additional tariff reductions, those discussions should occur during trade negotiations, instead of being legislated on the floor of the U.S. Senate. U.S. manufacturers are the only customers domestic wool growers have; virtually no wool is exported. Wyoming is the second largest wool producing state and because of already depressed wool prices, our growers can not break even, let alone turn a profit. Accelerating wool fabric tariff cuts, at this time, will only further decrease fiber prices and sales, consequently putting U.S. wool growers and textile workers at risk. I thank my colleague, Senator LIEBERMAN, for his work on this crucial issue.

Mr. LIEBERMAN. I thank my colleague from Wyoming for his kind words. On November 3, I presented legislative background on the wool tariff provision to reflect the concerns of my constituents about any revision to tariff reduction and phase-out schedules that would unfairly alter their competitive posture and force layoffs. Specifically, I noted that the language in the provision as originally proposed dinting the inclusion of the wool fabric industry was purposely deleted in the version that passed in the Manager's Amendment, underscoring the Senate's clear intent that this provision is not directed at this sector.

Second, the provision specifically requires that full account be taken of ''conditions'' in the various ''producing industry in the United States,'' indicating that whatever further action Congress may want to consider in the future on this issue, or that the U.S. Trade Representative may raise in future negotiations, must assure fairness and equitable treatment to those currently producing in the United States. Furthermore, the language specifically states that special attention and equity is to be provided to ''those currently facing tariff phase-outs negotaited under prior trade agreements.'' Since my constituents in the wool fabrication sector specifically fall into exactly that posture, property relying on phase-out schedules negotiated in prior trade agreements, this protection and assurance is directed at their concerns, which, in turn, is why their industry sector was dropped from application of this provision.

Senator HELMS, is it not true that Senators MOYNIHAN and ROTH provided assurances that I would be given full notice of any consideration of this issue in conference and that it will be resolved in a manner satisfactory to me in representative of my constituents concerns?

Mr. HELMS. That is my understanding of your verbal agreement with the managers of the bill.

Mr. LIEBERMAN. Mr. President, we have reiterated our concerns concerning the wool tariff provision with the hope that the leadership will find a way to support the views of nearly one quarter of the Senate. I ask unanimous consent to print in the RECORD a letter from April 16, 1999, from 23 Senators opposed by any changes in wood tariffs addressed to Senator ROTH.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, April 16, 1999.

Hon. WILLIAM ROTH
Chairman, Finance Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We write to express strong opposition to S. 218, which is designed to reduce some and eliminate other existing U.S. tariffs on certain types of wool fabric. This bill is virtually identical to legislation introduced last Congress, which drew widespread, adverse reaction from U.S. producers of wool fiber, top, yarns, and fabrics, as well as many in Congress.

Our continued opposition to this legislation is based on a number of factors:

The fabric types covered by S. 218 are readily available from U.S. producers.

Wool fabric tariffs are already in the process of being reduced, and as such there is no need for these additional, unilateral cuts. In 1995 the WTO/Uruguay Round instituted a phased 30% tariff reduction and import quota elimination for the same products covered by S. 218.

Based on the trade laws and tariffs in place as a result of the Uruguay Round/WTO and the NAFTA, hundreds of millions of dollars in investments were made by the domestic wool fabric industry to try to help ensure their survival. Changing the rules of the game now by making additional, unforeseen tariff cuts will undermine the integrity of these trade rules/agreements and destroy these investments.

In preparation for the new WTO Round, the U.S. is participating in multilateral trade talks this year. Rather than sanctioning additional, unilateral U.S. tariff cuts, Congress should instead instruct the Administration to focus on improving foreign market access for U.S. produced wool fabric and other textile products during these talks. We believe that even those in Congress who may favor tariff cuts, would understand that doing so outside the WTO negotiating context is not in the best interests of the United States, since there would be no possibility of using these or any other cuts as a bargaining tool to get trade concession in return.

These proposed cuts would have an extremely severe impact on the approximately 90,000 U.S. workers whose livelihoods are directly tied to the production of wool textiles.

The unilateral giveaway of U.S. wool fabric tariffs mandated under S. 218 comes at a time when imports are already at record levels. Adding to the current import crisis in this sector is the fact that many Asian suppliers are exporting these fabrics well below 1997 prices as a result of the economic crisis in that region.

The flood of low cost imports has forced U.S. companies to lay-off over 1,600 wool yarn and fabric workers in January 1999, alone. This is the continuation of a devastating trend whereby nearly one-third of all U.S. wool yarn and fabric jobs have been lost in recent years. Certainly, passage of S. 218 will result in the loss of thousands of additional jobs.

U.S. woolgrowers produce fine wools that go into the fabrics covered by S. 218. U.S. wool, top, yarn, & fabric manufacturers are the only customers U.S. woolgrowers have; virtually no wool is exported. Due to surging wool textile and apparel imports, U.S. wool fiber sales and prices have been extremely depressed. Wool fabric tariff cuts will leave woolgrowers with an even more diminished customer base for their wool fiber, at a time when the lamb meat portion of their business is also being severely harmed by increased lamb meat imports.

For these reasons, we believe that you should oppose S. 218. Specifically, we encourage you to block the inclusion of this legislation as part of any trade bill or other legislation that your committee may approve in the 106th Congress. Thank you for your consideration of our views on this important matter.

Sincerely,

Larry E. Craig; Mike Enzi; Olympia Snowe; Mike Crapo; Ben Nighthorse Campbell; John Warner; Chuck Robb; Fritz Hollings; Susan Collins; Conrad Burns; Max Baucus; Craig Thomas; Pete V. Domenici; Joe Lieberman; Richard Shelby; Robert F. Bennett; Strom Thurmond; Jesse Helms; John Edwards; Tim Johnson; Jeff Bingaman; John H. Chafee; Jeff Sessions.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Monday, November 8, 1999, the Federal debt stood at $5,660,688,811,424.68 (Five trillion, six hundred sixty billion, six hundred eighty-eight million, eight hundred eleven thousand, four hundred twenty-four dollars and sixty-eight cents).

Five years ago, November 8, 1994, the Federal debt stood at $4,724,109,000,000 (Four trillion, seven hundred twenty-four billion, one hundred nine million).

Ten years ago, November 8, 1989, the Federal debt stood at $2,895,742,000,000 (Two trillion, eight hundred ninety-five billion, seven hundred forty-two million).

Fifteen years ago, November 8, 1984, the Federal debt stood at $1,616,564,000,000 (One trillion, six hundred sixteen billion, five hundred sixty-four million).

Twenty-five years ago, November 8, 1974, the Federal debt stood at $478,873,000,000 (Four hundred seventy-eight billion, eight hundred seventy-three million) which reflects a debt increase of more than $5 trillion—$5,181,815,811,424.68 (Five trillion, one hundred eighty-one billion, eight hundred fifteen million, eight hundred eleven thousand, four hundred twenty-four dollars and sixty-eight cents) during the past 25 years.

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 two withdrawal and nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:22 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. 359. An act to clarify the intent of Congress in Public Law 93–632 to require the Secretary of Agriculture to continue to provide for the maintenance and operation of 18 concrete dams and weirs that were located in the Emigrant Wilderness at the time the wilderness area was designated in that Public Law.

H.R. 1832. An act to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage.

H.R. 2307. An act to designate the building of the United States Postal Service located at 5 Cedar Street in Hopkinton, Massachusetts, as the ''Thomas J. Brown Post Office Building.''

H.R. 2904. An act to amend the Ethics in Government Act of 1978 to reauthorize funding for the Office of Government Ethics.

H.R. 3002. An act to provide for the continued preparation of certain useful reports concerning public lands, Native Americans, fisheries, wildlife, insular areas, and other natural resources-related matters, and to repeal provisions of law regarding terminated reporting requirements concerning such matters.

H.R. 3077. An act to amend the Act that authorized construction of the San Luis Unit of the Central Valley Project, California, to facilitate water transfers in the Central Valley Project.

H.R. 3189. An act to designate the United States post office located at 14071 Peyton Drive in Chino Hills, California, as the ''Joseph Ileto Post Office.''

The message also announced that the House disagrees to 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, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. STUMP, Mr. SMITH of New Jersey, Mr. QUINN, Mr. STEARNS, Mr. EVANS, Ms. BROWN of Florida, and Mr. DOYLE, as managers of the conference on the part of the House.

At 2:15 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 2280) to amend title 38, United States Code, to provide a cost-of-living adjustment in rates of compensation paid for service connected disabilities, to enhance the compensation, memorial affairs, and housing programs of the Department of Veterans Affairs, to improve retirement authorities applicable to judges of the United States Court of Appeals for Veterans Claims, and for other purposes, with amendments, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 76. Joint resolution waiving certain enrollment requirements for the remainder of the first session of the One Hundred Sixth Congress with respect to any bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2000.

At 5:12 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1555) to authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on November 9, 1999, he had presented to the President of the United States, the following enrolled bills:

S. 468. An act to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public.

S. 900. An act to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The following bills and joint resolution, previously signed by the Speaker of the House, were signed on today, November 9, 1999, by the President pro tempore (Mr. THURMOND):

S. 468. an Act to improve the effectiveness and performance of Federal financial assistance programs, simplify Federal financial assistance application and reporting requirements, and improve the delivery of services to the public.

S. 900. An Act to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, insurance companies, and other financial service providers, and for other purposes.

H.R. 3122. An act to permit the enrollment in the house of Representatives Child Care Center of children of Federal employees who are not employees of the legislative branch.

H.J. Res. 54. Joint resolution granting the consent of Congress to the Missouri-Nebraska Boundary Compact.

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–370. A resolution adopted by the Nevada State AFL–CIO Annual Convention relative to the National Surface Transportation Board; to the Committee on Commerce, Science, and Transportation.

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–6102. A communication from the Executive Director, Appraisal Subcommittee, Federal Financial Institutions Examination Council, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6103. A communication from the Inspector General, Farm Credit Administration, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6104. A communication from the Chairman, National Credit Union Administration, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6105. A communication from the Staff Director, Federal Election Commission, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6106. A communication from the Administrator, National Aeronautics and Space, Administration, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6107. A communication from the Director, National Gallery of Art, transmitting, pursuant to law, a report relative to its commercial activities inventory; to the Committee on Governmental Affairs.

EC–6108. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Prevailing Rate Systems; Abolishment of the Dubuque, Iowa Appropriated Fund Wage Area'' (RIN3206–AI90), received November 4, 1999; to the Committee on Governmental Affairs.

EC–6109. A communication from the Chairman, U.S. Merit Systems Protection Board, transmitting, pursuant to the Federal Manager's Financial Integrity Act, the annual report for fiscal year 1999; to the Committee on Governmental Affairs.

EC–6110. A communication from the President, James Madison Memorial Fellowship Foundation, transmitting, pursuant to the Federal Manager's Financial Integrity Act, the annual report for fiscal year 1997; to the Committee on Governmental Affairs.

EC–6111. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report relative to Medicare approved home health agencies; to the Committee on Finance.

EC–6112. A communication from the Chief, Regulations Branch, U.S. Customs Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Foreign Locomotives and Railroad Equipment in International Traffic; Technical Amendment'' (R.P. 98–21), received November 4, 1999; to the Committee on Finance.

EC–6113. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to the Republic of Korea; to the Committee on Foreign Relations.

EC–6114. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–6115. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Australia, Bermuda, Canada, France, Germany, Italy, Japan, Norway, Sweden, and the United Kingdom; to the Committee on Foreign Relations.

EC–6116. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Australia; to the Committee on Foreign Relations.

EC–6117. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to Italy; to the Committee on Foreign Relations.

EC–6118. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed Manufacturing License Agreement with Germany; to the Committee on Foreign Relations.

EC–6119. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed Manufacturing License Agreement with Japan; to the Committee on Foreign Relations.

EC–6120. A communication from the Assistant Secretary, Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to certification of a proposed Technical Assistance Agreement with Greece; to the Committee on Foreign Relations.

EC–6121. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Coordinated Acquisition Procedures Update'' (DFARS Case 99–D022), received November 5, 1999; to the Committee on Armed Services.

EC–6122. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Contract Administration and Audit Services'' (DFARS Case 98–D003, 99–D004, 99–D010), received November 5, 1999; to the Committee on Armed Services.

EC–6123. A communication from the Director, Defense Procurement, Department of Defense, transmitting, pursuant to law, the report of a rule entitled ''Weighted Guidelines and Performance-Based Payments'' (DFARS Case 99–D001), received November 5, 1999; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SMITH of New Hampshire, from the Committee on Environment and Public Works:

S. 1627. A bill to extend the authority of the Nuclear Regulatory Commission to collect fees through 2004, and for other purposes (Rept. No. 106–220).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 979. 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 (Rept. No. 106–221).

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. GRAMM for the Committee on Banking, Housing, and Urban Affairs:

Susan M. Wachter, of Pennsylvania, to be an Assistant Secretary of Housing and Urban Development, vice Michael A. Stegman, resigned.

Gregory A. Baer, of Virginia, to be an Assistant Secretary of the Treasury, vice Richard Scott Carnell, resigned.

By Mr. HELMS for the Committee on Foreign Relations:

Kay Kelley Arnold, of Arkansas, to be a Member of the Board of Directors of the Inter-American Foundation for a term expiring October 6, 2004, vice Neil H. Offen, term expired.

Irwin Belk, of North Carolina, to be an Alternate Representative of the United States of America to the Fifty-fourth Session of the General Assembly of the United Nations.

Revius O. Ortique, Jr., of Louisiana, to be an Alternate Representative of the United States of America to the Fifty-fourth Session of the General Assembly of the United Nations.

Carol Moseley-Braun, of Illinois, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to New Zealand.

Carol Moseley-Braun, of Illinois, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to Samoa.

Nominee: Carol E. Moseley-Braun.

Post: Ambassador to New Zealand.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, Amount, Date, and Donee:

1. Self: none.
2. Spouse: N/A.
3. Children and spouses: none.
4. Parents: deceased.
5. Grandparents: deceased.
6. Brothers and spouses: Joseph and Diane Moseley, none.
7. Sisters and spouses: Marsha Moseley, see attached; Mark Kerman, none.

ATTACHMENT—CONTRIBUTIONS MADE BY: MARSHA MOSELEY

Donees: Oak Park Mayoral Candidate John Shoelstroup; Danny Davis for U.S. Congress; Patrice Ball-Reed, Judicial; Dorothy Brown for City Treasurer; Maria Sanchez for U.S. Congress, Cal.; Fredrenna Lyle, Alderperson; and Judge Sharon Johnson Coleman.

Dates and amounts of donations not available.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I report favorably the nomination list which was printed in the RECORD indicated below, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that the nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Foreign Service, 127 nominations beginning Rita D. Jennings, and ending Carol Lynn Dorsey, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 3, 1999.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of November 3, 1999, at the end of the Senate proceedings.)

By Mr. WARNER for the Committee on Armed Services:

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Kevin P. Green, 6805

(The above nomination was reported with the recommendation that he be confirmed.)

Mr. WARNER. Mr. President, for the Committee on Armed Services, I report favorably the nomination list which was printed in the RECORD indicated below, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that the nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORD of November 3, 1999, at the end of the Senate proceedings.)

In the Army, 2 nominations beginning Alan G. Lackey, and ending Rita A. Price, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 3, 1999.

In the Marine Corps, 1 nomination of Karl G. Hartenstine, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of November 3, 1999.

In the Navy, 5 nominations beginning Lynne M. Hicks, and ending William D. Watson, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of November 3, 1999.

In the Navy, 1 nomination of John R. Daly, Jr., which was received by the Senate and appeared in the CONGRESSIONAL RECORD of November 3, 1999.

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. ROBB (for himself, Mr. SARBANES, and Ms. MIKULSKI):

S. 1885. A bill to amend title 5, United States Code, to provide for more equitable policies relating to overtime pay for Federal employees, limitations on premium pay, and the accumulation and use of credit hours; to the Committee on Governmental Affairs.

By Mr. INHOFE (for himself, Mrs. FEINSTEIN, and Mr. SMITH of New Hampshire):

S. 1886. A bill to amend the Clean Air Act to permit the Governor of a State to waive the oxygen content requirement for reformulated gasoline, to encourage development of voluntary standards to prevent and control releases of methyl tertiary butyl ether from underground storage tanks, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ENZI:

S. 1887. A bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the minimum wage and protect the rights of States that have adopted State minimum wage laws; to the Committee on Health, Education, Labor, and Pensions.

By Mr. AKAKA (for himself, Mr. INOUYE, and Mr. GRAHAM):

S. 1888. A bill to support the protection of coral reefs and other resources in units of the National Park System and other agencies under the administration of the Secretary of the Interior; to the Committee on Energy and Natural Resources.

By Mr. GRAMS:

S. 1889. A bill to amend the Congressional Budget Act of 1974 to provide for joint resolutions on the budget, reserve funds for emergency spending, strengthened enforcement of budgetary decisions, increased accountability for Federal spending; accrual budgeting for Federal insurance programs, mitigation of the bias in the budget process toward higher spending, modifications in paygo requirements when there is an on-budget surplus, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. SANTORUM (for himself and Mr. SPECTER):

S. 1890. A bill to amend title XVIII of the Social Security Act to provide that geographic reclassifications of hospitals from one urban area to another urban area do not result in lower wage indexes in the urban area in which the hospital was originally classified; to the Committee on Finance.

By Mr. CHAFEE:

S. 1891. A bill to amend the Elementary and Secondary Education Act of 1965 to improve literacy through family literacy projects; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1892. A bill to authorize the acquisition of the Valles Caldera, to provide for an effective land and wildlife management program for this resource within the Department of Agriculture, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BOND:

S. 1893. A bill to amend the Indian Gaming Regulatory Act to prohibit the Secretary of the Interior from taking land into trust for Indian tribes for gaming purposes under certain conditions, and for other purposes; to the Committee on Indian Affairs.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 1894. A bill to provide for the conveyance of certain land to Park County, Wyoming; to the Committee on Energy and Natural Resources.

By Mr. BREAUX (for himself, Mr. FRIST, Mr. KERREY, and Mr. HAGEL):

S. 1895. A bill to amend the Social Security Act to preserve and improve the medicare program; to the Committee on Finance.

By Mr. LEAHY (for himself and Mr. BAUCUS):

S. 1896. A bill to amend the Public Buildings Act of 1959 to give first priority to the location of Federal facilities in central business areas, and for other purposes; to the Committee on Environment and Public Works..

By Mr. BIDEN:

S. 1897. A bill to amend the Public Health Service Act to establish an Office of Autoimmune Diseases at the National Institutes of Health, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DORGAN (for himself, Mr. ASHCROFT, and Mr. LEAHY):

S. 1898. A bill to provide protection against the risks to the public that are inherent in the interstate transportation of violent prisoners; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAUCUS (for himself and Mr. GRASSLEY):

S. Res. 226. A resolution expressing the sense of the Senate regarding Japanese participation in the World Trade Organization; to the Committee on Finance.

By Mr. BOND (for himself, Mr. BRYAN, Mr. DEWINE, Mr. BINGAMAN, Mr. JOHNSON, Mr. KENNEDY, and Mr. ROCKEFELLER):

S. Res. 227. A resolution expressing the sense of the Senate in appreciation of the National Committee for Employer Support of the Guard and Reserve; to the Committee on Armed Services.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 228. A resolution making changes to Senate committees for the 106th Congress; considered and agreed to.

By Mr. LOTT:

S. Res. 229. A resolution making certain majority appointments to certain Senate committees for the 106th Congress; considered and agreed to.

By Mr. ENZI (for himself and Ms. LANDRIEU):

S. Res. 230. A resolution expressing the sense of the Senate with respect to government discrimination in Germany based on religion or belief; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROBB (for himself, Mr. SARBANES, and Ms. MIKULSKI):

S. 1885. A bill to amend title 5, United States Code, to provide for more equitable policies relating to overtime pay for Federal employees, limitations on premium pay, and the accumulation and use of credit hours; to the Committee on Governmental Affairs.

EQUITABLE OVERTIME PAY FOR FEDERAL SUPERVISORS AND MANAGERS

Mr. ROBB. Mr. President, I am very pleased to be joined by my colleagues, Senators SARBANES and MIKULSKI, to introduce legislation to pay overtime to federal managers and supervisors more equitably.

I'm proud of our federal workers. Despite seemingly constant assaults, our nations's civil servants have persevered to provide government that is working better and more efficiently than ever. We've seen a streamlined federal government that's continually asked to improve services to its customers—the American people. But with smaller staffs and the push to increase the federal government's productivity, workloads continue to grow. As federal employees' duties grow, the need to work more overtime hours increases as well. Managers, supervisors and other FLSA-exempt employees within the federal government can receive overtime, but the current overtime cap presents two problems to these employees: they earn less working on overtime than they do for the work they perform during the week and they earn less while working overtime than the employees they supervise. Who then, can blame prospective candidates for supervisory or management positions for declining promotions when remaining in their current, non-supervisory position can mean more money for their families? If the federal government is to continue to recruit and retain a top-notch workforce, then the present overtime cap is one issue that we need to address.

Our legislation will ensure that supervisors and managers neither make less working overtime than they would during regular work hours nor make less working overtime than those they supervise. This bill increases the overtime cap from GS–10 step 1 to GS–12 step 1, the first adjustment in the overtime cap since 1966. Our bill doesn't mandate that overtime be paid; overtime pay will be implemented as it is currently, based on personnel decisions made by individual agencies.

We should encourage incentives to attract bright and capable workers to join the management ranks of the federal government, and this bill is one such incentive. I look forward to working with my colleagues to ensure its consideration and favorable recommendation as quickly as possible.

By Mr. INHOFE (for himself, Mrs. FEINSTEIN, and Mr. SMITH of New Hampshire):

S. 1886. A bill to amend the Clean Air Act to permit the Governor of a State to waive the oxygen content requirement for reformulated gasoline, to encourage development of voluntary standards to prevent and control release of methyl tertiary butyl ether from underground storage tanks, and for other purposes; to the Committee on Environment and Public Works.

OXYGEN CONTENT REQUIREMENT FOR REFORMULATED GASOLINE

• Mrs. FEINSTEIN. Mr. President, I am pleased to join with Senator JAMES INHOFE of Oklahoma, the chairman of the Clean Air Subcommittee, in introducing a bill, S. 1886, to allow the governor of a state to waive the oxygenate content requirement for reformulated or clean-burning gasoline. The bill also requires U.S. EPA to conduct a study on whether voluntary standards to prevent releases of MTBE from underground tanks are necessary.

This is the fifth bill I have introduced in this Congress to address the widespread contamination of drinking water by MTBE in my state. I do this in hopes that this bill will be a straightforward solution to a very serious problem—MTBE detections in ground and surface water in my state and at lest 41 other states.

The Clean Air Act requires that cleaner-burning reformulated gasoline (RFG) be sold in areas with the worst violations of ozone standards: Los Angeles, San Diego, Hartford, New York, Philadelphia, Chicago, Baltimore, Houston, Milwaukee, Sacramento. (In addition, some states and areas have opted to use reformulated gasoline as way to achieve clean air.) Second, the Act prescribes a formula for reformulated gasoline, including the requirement that reformulated gasoline contain 2.0 percent oxygen, by weight.

In response to this requirement, refiners have put the oxygenate MTBE in over 85 percent of reformulated gasoline now in use. MTBE stands for methyl tertiary butyl ether. The problem is that increasingly, MTBE is being detected in drinking water. MTBE is a known animal carcinogen and a possible human carcinogen, according to U.S. EPA. It has a very unpleasant odor and taste, as well.

The Inhofe-Feinstein bill, S. 1886, would allow governors, upon notification to U.S. EPA, to waive the 2.0% oxygenate requirement, as long as the gasoline meets the other requirements in the law for reformulated gasoline.

On July 27, the U.S. EPA Blue Ribbon Panel on Oxygenates in Gasoline recommended that the 2 percent oxygenate requirement be ''removed in order to provide flexibility to blend adequate fuel supplies in a cost-effective manner while quickly reducing usage of MTBE and maintaining air quality benefits.'' In addition, the panel agreed that ''the use of MTBE should be reduced substantially.'' Importantly, the panel recommended that ''Congress act quickly to clarify federal and state authority to regulate and/or eliminate the use of gasoline additives that pose a threat to drinking water supplies.''

This bill, while not totally repealing the 2 percent oxygenate requirement, moves us in that direction. It gives states that choose to meet clean air requirements without oxygenates to do so. It allows states that choose an oxygenate, such as ethanol, to do so. Areas required to use reformulated gasoline for cleaner air will still be required to use it. The gasoline will have a different but clean formulation. Areas will continue to have to meet clean air standards.

MTBE has contaminated groundwater at over 10,000 sites in California, according to the Lawrence Livermore Laboratory. Of 10,972 groundwater sites sampled, 39 percent had MTBE, says the state Department of Health Services. Of 765 surface water sources sampled, 287 or 38% had MTBE.

Nationally, one EPA-funded study found, of 34 states, MTBE was present more than 20 percent of the time in 27 states. A U.S. Geological Survey report had similar findings. An October 1999 Congressional Research Service analysis concluded that 41 states have had MTBE detections in water.

In California, Governor Davis concluded that MTBE ''poses a significant risk to California's environment'' and directed that MTBE be phased out in California by December 31, 2002. There is not a sufficient supply of ethanol or other oxygenates to fully replace MTBE in California, without huge gas price spikes and gasoline supply disruptions. In addition, California can make clean-burning gas without oxygenates.

Therefore, California is in the impossible position of having to meet a federal requirement that is (1) contaminating the water and (2) is not necessary to achieve clean air.

On April 12, 1999, Governor Davis asked U.S. EPA for a waiver of the 2% oxygenate requirement. I too wrote U.S. EPA—on May 18, 1999; December 3, 1998; September 29, 1998; September 28, 1998; September 14, 1998; November 3, 1997; September 24, 1997; April 22, 1997; and April 11, 1997. I have met with EPA officials several times and have talked directly to Administrator Carol Browner. To date, EPA has not granted California a waiver of the two percent. Again, today I call on EPA to act. In the meantime, I will continue to urge Congress to act.

Time is of the essence. California Governor Davis is phasing out MTBE in our state, but the federal law requiring 2 percent oxygenates remains, putting our state in an untenable position. Refiners needs a long lead time to retool their facilities and time is growing short.

A major University of California study released last year concluded that MTBE provides ''no significant air quality benefit'' but that its use poses ''the potential for regional degradation of water resources, especially ground water. . . .'' Oxygenates, say the experts, are not necessary for reformulated gasoline.

California has developed a gasoline formula that provide flexibility and provides clean air. Called the ''predictive model,'' it guarantees clean-burning RFG gas with oxygenates, with less than 2 percent oxygenates and with no oxygenates. Several refiners, including Chevron and Tosco, are selling MTBE-free gas in California, for example, in the Lake Tahoe area.

Under S. 1886, air standards would still have to be met and gasoline would have to meet all other requirements of the federal reformulated gasoline program, for example, the limits on benzene, heavy metals, emission of oxides of nitrogen.

This is a minimal bill that will give California and other states the relief they need from a unwarranted, unnecessary requirement. It will allow states that want oxygenates in their gasoline to use them and those that do not to not use them.

The bill does not undo the Clean Air Act. The bill does not degrade air quality.

Importantly, it can stop the contamination of drinking water in may state by MTBE.●

By Mr. ENZI:

S. 1887. A bill to amend the Fair Labor Standards Act of 1938 to provide for an increase in the minimum wage and protect the rights of States that have adopted State minimum wage laws; to the Committee on Health, Education, Labor, and Pensions.

MINIMUM WAGE STATE FLEXIBILITY ACT OF 1999

Mr. ENZI. Mr. President, as I have listened to those Senators who support an increase in the minimum wage speak today—and I've listened closely—what I've heard them repeatedly say is that the minimum wage is not high enough for workers to afford to put food on the table, pay rent or take care of their families. This is a vital point for any American family, so I've listened carefully to see if anyone who supports an increase could explain why folks in rural states and counties have identical living standards of people residing in New York City or Boston or Los Angeles. Interestingly enough, this question has been essentially left unanswered. No one who supports an increase has been able to explain how wages affect workers differently in different states, and why that matters so much when we are talking about increasing the minimum wage. In an effort to ensure that no worker gets left behind and that we are considering all economic scenarios, I feel compelled to stand up here and talk about it—about why the number of dollars a worker gets paid has a drastically different impact from one state to another and even from one county to another. We must consider how increasing the minimum wage can make jobs in rural states and counties even more scarce; and, about how a wage hike can add even more people to the welfare rolls.

We have heard the old adage that people are entitled to their own opinions, but not their own facts. Well, here are the facts. It costs over twice as much to live in New York City than it does to live in Cheyenne, WY. That's a fact. A $25,000 salary in Cheyenne has the same buying power as a $51,000 salary in New York, a $32,000 salary in Boston, or a $30,000 salary in Los Angeles. In other words, the average Wyoming worker can buy more than twice as much for the same wage as a worker in Manhattan. Twice as much. To put an even finer point on this staggering disparity, if the average worker in New York City is looking to rent an apartment, she would have to spend a whopping $2,730 per month—that's almost six times as expensive as the average apartment in Cheyenne. An apartment in Cheyenne only costs $481 on average per month.

What about buying a home? The price difference between urban cities and rural towns is just as alarming. In New York, the average home costs $533,000; in Boston, it costs $244,000 and here in Washington, DC, it costs $205,000. In Cheyenne, the cost of the average house is much, much less: $116,000. In other rural towns, it's far below $100,000—even $50,000.

Let's look at other necessities. In New York, it is 50 percent more expensive to buy groceries than it is in Cheyenne. In Boston, the cost of utilities are almost double what they are in Cheyenne. And in Los Angeles, medical expenses are a third higher than in Cheyenne. My point is this: the cost of living in New York, or Boston, or Los Angeles is drastically higher than it is in rural towns. This is not one person's opinion—it's a fact. And so to propose a wage level increase across the board and from coast to coast has an impact on these empirical disparities. It is like saying that rent for every apartment in this country must not be any higher than an apartment rent in rural towns, or that every bag of groceries must not cost any more than what it costs at a small town grocery store. No one would ever propose that, which is the reason I feel the need to ensure that such economic differences are, at the very least, debated.

It is different—supporters of an increase will argue—because the increase just sets a floor, a minimum wage for workers. States like New York, and California, and Massachusetts can tack on to that if they wish. But doesn't that just beg the question? If there is a minimum wage disparity for workers in those states with higher costs of living, then why are we raising the minimum wage in every state just to compensate for those states where it costs more to live? Why are we endangering the economic stability of rural states and counties by not considering this reality?

The raw statistics show that job growth in Wyoming is exactly half of job growth nationwide—it's growing, but just not as quick as we would like. Each year, at least 50 percent of Wyoming's college graduates leave the state, unable to find work because there aren't enough businesses to keep pace. What that translates into is this: if the minimum wage increase passes, rural areas cold face fewer jobs than they already provide. What every student who has ever taken an economics course knows is that if you increase the price of something (in this case, a minimum wage job), you decrease the demand for those jobs. Indeed, a survey of members of the American Economic Association revealed that 77 percent of economists believe that a minimum wage hike causes job loss. For states that already struggle just to grow small businesses and increase the number of jobs they produce, such an outcome can be detrimental. And for those parents in Wyoming who tell me over and over again how tired they are of seeing their kids leave the state to attend college elsewhere—simply because there are not enough part-time and full-time entry level jobs to get experience from and help pay for their education. One restaurant owner in a small town told me that he would increase the wage, but that would mean 5 less jobs for bus boys. After the last increase, I also recall college students complaining because college grants—or work studies—were negatively impacted. What happened was that grant amounts weren't increased, so the minimum wage hike resulted in less hours available per student under the grant. Students said that it resulted in a net loss for them. It's because of unforeseen situations like these, I am compelled to bring this issue to the table.

The legislation I'm proposing today is an attempt to save rural states and

counties from losing even more precious jobs because ''Inside the Beltway'' types think that a minimum wage hike might help workers in higher cost of living states like Massachusetts, California, and New York. This legislation, which I call ''State Flexibility,'' is not a perfect solution. What this bill would do is give some discretion back to the states to decide whether it wants to remain at the increased federal rate of $6.15 an hour, or whether a wage that's 15 percent under the federal wage works better for the economic growth—and the workers—of that state.

Here's how the bill would work. First, just so that there is no confusion, it would not prevent any federal minimum wage increases from applying nationally. But this legislation would provide state legislators the ability to set the minimum wage for the state, or a county within the state, at 15 percent under the federal floor. This legislation would also allow a Governor on a ''temporary'' basis to set the minimum wage for a state or a county at 15 percent less than the federal floor for reasons such as high unemployment, slow economic growth or potential harm to the state's welfare-to-work programs. I have listened carefully to the concerns of one-size-fits-all wage hike advocates, who say that the proposed increase is for workers. I agree, which is precisely why I'm advocating this approach—to ensure that welfare-to-work moms and dads living in counties with high unemployment rates aren't excluded. I am confident that nobody in this Chamber wants to leave anyone behind.

I've talked quite a bit today about how increasing the minimum wage would affect the small business owner. Having owned a small business in Wyoming for 27 years, I can speak with some experience about just how detrimental an increase would be on small employers and job growth, and how this legislation would offer some flexibility to rural states and counties. But one area that I've been learning more about is how bad an increase would be on folks who have just recently entered the job market through welfare-to-work programs. What I've read has startled me, and as a former small business owner, the statistics pertaining to rural regions of the country make tangible sense to me. So much sense, in fact, that I am more convinced than ever that just increasing the minimum wage is not as sound a policy as advocates suggest.

First. Just as a minimum wage increase would slow job creation in rural states and negatively affect people who have been employed in their field for years, college students looking for jobs, or new graduates, it would also severely impact welfare recipients looking for work. University of Wisconsin economist Peter Brandon has actually determined that minimum wage hikes actually increase duration on welfare by more than 40 percent.

Second. The Educational Testing Service has concluded that fully two-thirds of welfare recipients have skills that qualify, at best, for entry-level employment, and many fall far below. And what researchers at Boston University have shown is that lower-skilled adults are displaced after a minimum wage hike by teens and students who are perceived as having better skills.

Third. Undoubtedly due to the above, research from Michigan State University shows that minimum wage hikes push as many families into poverty (due to job loss, for example), as they pull out of poverty.

These daunting statistics sound alarms if we haphazardly push through a minimum wage hike that has a heck of a good sound bite, but an awful aftertaste when the dust settles and a number of workers are left behind. This proposal, however, speaks to this point. If a state legislature or a Governor sees a potential for a detrimental impact on welfare to work programs within that state, they can act to keep the rate at 15 percent under the federal floor. This is simple, rational discretion. This legislation instills the same ideals incorporated in the 1996 Welfare Reform Act and the 1998 Workforce Investment Act. Congress and the President entrusted states with administering welfare-to-work and our nation's job training programs. This bill would complement those landmark laws by saying that states can adjust the mandatory wage—ensuring that no worker gets left behind. We must not turn a blind eye when state flexibility matters most.

As chairman of the Senate Subcommittee on Employment, Safety and Training, my colleagues can be assured that the problem of economic disparities spurred by the lack of consideration by federal mandates will continue until we take a closer look. It's real and it deserves our attention. It is my hope that by discussing this bill, the Senate will begin to exclude the politics from the minimum wage debate and start examining the full spectrum of this issue. I am serious about addressing this and I fully intend to debate it during the second session. The media and interest groups have asked that we not politicize the minimum wage. I couldn't agree more, which is why I ask you to carefully consider not leaving anyone behind. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1887

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 ''Minimum Wage State Flexibility Act of 1999''.

SEC. 2. STATE MINIMUM WAGES AND AREA STANDARDS.

(a) IN GENERAL.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) is amended by adding at the end the following:

''(h) STATE MINIMUM WAGES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this section and sections 13(a) and 14, an employer in a State that has adopted minimum wage legislation that meets the requirements of paragraph (2) shall pay to each of its employees a wage at a rate that is not less than the rate provided for in such State's minimum wage legislation.

''(2) REQUIREMENT.—This section and sections 13(a) and 14 shall only apply in such States that have adopted minimum wage legislation that sets wages for at least 95 percent of the workers within the State at an hourly rate that is not less than 85 percent of the hourly rate generally applicable for the year involved under subsection (a).

''(3) EMERGENCY CIRCUMSTANCES.—The chief executive officer of a State, through an executive order (or its equivalent), may set wages applicable to at least 95 percent of the employees within the State (or particular county of the State) at an hourly rate that is not less than 85 percent of the hourly rate generally applicable for the year involved under subsection (a) if any of the following circumstances exist:

''(A) The State welfare-to-work programs would be sufficiently harmed by mandating a minimum wage rate above an hourly rate equal to 85 percent of the hourly rate required under subsection (a).

''(B) The State (or county) is experiencing a period of high unemployment.

''(C) The State (or county) is experiencing a period of slow economic growth.

This paragraph shall only apply to an executive order (or its equivalent) that is effective for a period of 12 months or less.''.

(b) APPLICABILITY OF MINIMUM WAGE TO THE TERRITORIES.—Notwithstanding section 5 of the Fair Labor Standards Act (29 U.S.C. 205), the provisions of section 6 of such Act (29 U.S.C. 206) shall apply to the territories and possessions of the United States (including the Commonwealth of the Northern Mariana Islands) in the same manner as such provisions apply to the States.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on April 1, 2000.

(2) EXCEPTION FOR CERTAIN STATES.—In the case of a State which the Secretary of Labor identifies as having a legislature which is not scheduled to meet prior to the effective date described in paragraph (1) in a legislative session, the date specified in such paragraph shall be the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after such effective date, and in which a State law described in section 6(h)(2) of the Fair Labor Standards Act of 1938 (as added by subsection (a)) may be considered. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

By Mr. AKAKA (for himself, Mr. INOUYE, and Mr. GRAHAM):

S. 1888. A bill to support the protection of coral reefs and other resources in units of the National Park System and other agencies under the administration of the Secretary of the Interior; to the Committee on Energy and Natural Resources.

CAROL REEF RESOURCE CONSERVATION AND MANAGEMENT ACT

Mr. AKAKA. Mr. President, I rise to introduce a bill that will enhance our ability to understand and conserve

coral reef ecosystems and the ocean life that depends on them.

In the past few years, Congress and the administration have recognized the importance of coral reefs to ocean ecologies and grown increasingly concerned about the challenges facing our reefs. 1997 was recognized as ''Year of the Reef,'' and the House passed House Concurrent Resolution 8 which recognized the significance of maintaining the health and stability of coral reef ecosystems by promoting stewardship for reefs. In 1998 the President signed Executive Order 13089 establishing the U.S. Coral Reef Task Force under joint leadership of the Department of Commerce and Department of the Interior. The Executive order directs federal agencies to take steps to protect, manage, research and restore coral ecosystems. The bill I am introducing today supplements these actions by establishing a targeted national program for coral reef research, monitoring, and conservation for areas under the jurisdiction of the Department of the Interior. It is a companion measure to S. 1253, introduced earlier this year by Senator INOUYE, that authorizes a coral reef program through the Department of Commerce.

Mr. President, the importance of reefs to our economy, culture, and to the stability of our shorelines is becoming increasingly apparent as we begin to understand more about the interdependence of reefs and human activity. Substantial research shows that reefs are under greater stress than ever before, both from natural causes and human-induced damage. We need to act now before the decline of reefs becomes irreversible.

This measure authorizes coral reef research and conservation efforts through the Department of the Interior. The Department manages over 2,000 acres of sensitive coral reef habitat and adjacent submerged land at 20 national wildlife refuges and 9 units of the National Park System in Hawaii, Florida, the U.S. Virgin Islands, and the territories of Guam and American Samoa in the Pacific. Of the 4.2 million acres of reefs in the United States, few have been mapped, assessed, or characterized. There is still much to learn about the location and biology of coral reefs, their susceptibility to disease, and how they can be restored and sustained.

This measure establishes a coral reef conservation matching grant program that will leverage federal monies with non-federal funds raised through a nonprofit foundation. This initiative is consistent with the efforts of the President's Coral Reef Task Force established by Executive Order No. 13089, and with the activities of other agencies, such as the National Oceanic and Atmospheric Administration, that are involved in coral reef research, monitoring, restoration and conservation.

Under my legislation, the Secretary of the Interior is authorized to provide grants for coral reef conservation projects in areas under the Department's jurisdiction, through a merit-based, competitive program. Grants will be awarded on a 75 per cent federal and 25 per cent non-federal basis. The Secretary may also enter into an agreement with one or more foundations to solicit private funds dedicated to coral conservation programs. Up to 80 percent of the funding will be distributed equally between the Atlantic/Caribbean and the Pacific Ocean, and 20 percent of the funding can be used for emerging priorities or threats identified by the Secretary in consultation with the Coral Reef Task Force. Grants may be made to any relevant natural resource management authority of a State or territory of the United States, to other government authorities with jurisdiction over coral reefs as well as to educational or non-governmental institutions or organizations with demonstrated expertise in coral reef conservation. Priority will be given to projects that promote reef conservation through cooperative projects with local communities; that involve non-governmental organizations, academic or private institutions or local affected governments; that enhance public knowledge and awareness of coral reef resources; and that promise sound scientific information on the extent, nature and condition of reef ecosystems.

Most importantly, this legislation encourages community-based conservation efforts that involve local communities, nongovernmental organizations, and academic institutions in the protection of reefs. It brings people and communities together to participate in, and learn more about, the conservation of ocean resources—coral reefs and the many species that depend on reef ecosystems. Only by making ordinary people responsible for reef conservation, can we alter the types of human activity and behavior that are responsible for the adverse impacts on coral reefs that we glimpse today.

Mr. President, the people of Hawaii, our Nation's only insular state, are perhaps more aware of the subtle and interdependent relationship we have with coral reefs.

But all citizens should appreciate that the health of coral reefs is emblematic of the health of our oceans—upon which we depend for so many resources, from clean water to food to pharmaceuticals. Coral reefs are the rain forests of the ocean—a wild, beautiful, complex bountiful resource whose importance to life on earth, much less ourselves, is only beginning to be understood. But the harsh reality is that we are going to lose our reefs if we do not act soon, before we fully understand their role in the great web of marine life.

There are simply more people on the globe, in more places in the ocean, than ever before. Boats, anchors, snorkelers and divers are entering the water in increasing numbers. We are removing things from the water at an increasing rate—exotic salt water fish for home aquariums and pieces of coral for houses and home decor. The amount of sediment and pollution run-off onto coral reefs increases with every major shoreline development. It is vital that we start now, to research and preserve our reefs, before human impacts cause irreversible damages to a resource whose essential role in nature is only just beginning to be understood.

Thank you, Mr. President. I urge my colleagues to support this legislation, which represents a critical step in helping us understand and live sustainably with coral reef ecosystems.

I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1888

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 ''Coral Reef Resource Conservation and Management Act of 1999''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) coral reefs have great commercial, recreational, cultural, environmental, and aesthetic value;

(2) coral reefs—

(A) provide habitat to ⅓ of all marine fish species;

(B) are essential building blocks for biodiversity;

(C) are instrumental in forming tropical islands;

(D) protect coasts from waves and storms;

(E) contain an array of potential pharmaceuticals; and

(F) support tourism and fishing industries in the United States worth billions of dollars;

(3) studies indicate that coral reefs in the United States and around the world are being degraded and severely threatened by human and environmental impacts, including land-based pollution, overfishing, destructive fishing practices, vessel groundings, and climate change;

(4) the Department of the Interior—

(A) manages extensive acreage that contains sensitive coral reef habitat and adjacent submerged land at 20 national wildlife refuges and 9 units of the National Park System—

(i) in the States of Hawaii and Florida; and

(ii) in the territories of Guam, American Samoa, and the United States Virgin Islands; and

(B) maintains oversight responsibility for additional significant coral reef resources under Federal jurisdiction in insular areas, territories, and surrounding territorial waters in the Pacific Ocean and Caribbean Sea;

(5) few of the 4,200,000 acres of coral reefs of the United States have been mapped or have had their conditions assessed or characterized;

(6) the Department of the Interior conducts scientific research and monitoring to determine the structure, function, status, and condition of the coral reefs of the United States; and

(7) the Department of the Interior, in cooperation with public and private partners, provides technical assistance and engages in management and conservation activities for coral reef habitats.

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

(1) to conserve, protect, and restore the health of coral reef ecosystems and the species of fish, plants, and animals that depend on those ecosystems;

(2) to support the monitoring, assessment, management, and protection of coral reef ecosystems over which the United States has jurisdiction (including coral reef ecosystems located in national wildlife refuges and units of the National Park System);

(3) to augment and support the efforts of the Department of the Interior, the National Oceanic and Atmospheric Administration, and other members of the Coral Reef Task Force;

(4) to support research efforts that contribute to coral reef conservation;

(5) to support education, outreach, and enforcement for coral reef conservation;

(6) to provide financial resources and matching funds for partnership efforts to accomplish the purposes described in paragraphs (1) through (4); and

(7) to coordinate with the Coral Reef Task Force and other agencies to address priorities identified by the Coral Reef Task Force.

SEC. 3. DEFINITIONS.

In this Act:

(1) CORAL.—The term ''coral'' means any species of the phylum Cnidaria, including—

(A) any species of the order Antipatharia (black corals), Scleractinia (stony corals), Gorgonacea (horny corals), Stolonifera (organpipe corals and others), Alcyanacea (soft corals), or Coenothecalia (blue corals), of the class Anthozoa; and

(B) any species of the order Hydrocorallina (fire corals and hydrocorals) of the class Hydrozoa.

(2) CORAL REEF.—The term ''coral reef'' means the species (including reef plants and coralline algae), habitats, and other natural resources associated with any reef or shoal composed primarily of corals within all maritime areas and zones subject to the jurisdiction of the United States, including Federal, State, territorial, or commonwealth waters in the south Atlantic, the Caribbean, the Gulf of Mexico, and the Pacific Ocean.

(3) CORAL REEF CONSERVATION PROJECT.—The term ''coral reef conservation project'' means an activity that contributes to or results in preserving, sustaining, or enhancing any coral reef ecosystem as a healthy, diverse, and viable ecosystem, including—

(A) any action to enhance or improve resource management of a coral reef, such as assessment, scientific research, protection, restoration and mapping;

(B) habitat monitoring and any species survey or monitoring of a species;

(C) any activity necessary for planning and development of a strategy for coral reef management;

(D) community outreach and education on the importance and conservation of coral reefs; and

(E) any activity in support of the enforcement of laws relating to coral reefs.

(4) CORAL REEF TASK FORCE.—The term ''Coral Reef Task Force'' means the task force established under Executive Order No. 13089 (June 11, 1998).

(5) FOUNDATION.—The term ''foundation'' means a foundation that is a registered nonprofit organization under section 501(c) of the Internal Revenue Code of 1986.

(6) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(7) STATE.—The term ''State'' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Mariana Islands, or any other territory or possession of the United States.

SEC. 4. CORAL REEF RESOURCE CONSERVATION GRANT PROGRAM.

(a) IN GENERAL.—The Secretary shall provide grants for coral reef conservation projects in accordance with this section.

(b) ELIGIBILITY.—The Secretary may award a grant under this section to—

(1) any appropriate natural resource management authority of a State—

(A) that has jurisdiction over coral reefs; or

(B) the activities of which affect coral reefs; or

(2) any educational or nongovernmental institution or organization with demonstrated expertise in marine science or coral reef conservation.

(c) MATCHING REQUIREMENTS.—

(1) FEDERAL SHARE.—Except as provided in paragraph (3), the Federal share of the cost of a coral reef conservation project that receives a grant under this section shall not exceed 75 percent of the total cost of the project.

(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of a coral reef conservation project that receives a grant under this section may be provided in cash or in kind.

(3) WAIVER.—The Secretary may waive all or part of the matching requirement under paragraph (1) if—

(A) the cost of the project is $25,000 or less; or

(B) the project is necessary to undertake, complete, or enhance planning and monitoring requirements for coral reef areas under—

(i) the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.); or

(ii) 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.).

(d) ALLOCATION.—The Secretary shall award grants under this section so that—

(1) not less than 40 percent of the grant funds available are awarded for coral reef conservation projects in the Pacific Ocean;

(2) not less than 40 percent of the grant funds available are awarded for coral reef conservation projects in the Atlantic Ocean, the Gulf of Mexico, and the Caribbean Sea; and

(3) the remaining grant funds are awarded for coral reef conservation projects that address emergency priorities or threats identified by the Secretary, in consultation with the Coral Reef Task Force.

(e) ANNUAL FUNDING PRIORITIES.—After consultation with the Coral Reef Task Force, States, regional and local entities, and nongovernmental organizations involved in coral and marine conservation, the Secretary shall identify site-specific and comprehensive threats and constraints that—

(1) are known to affect coral reef ecosystems (including coral reef ecosystems in national wildlife refuges and units of the National Park System); and

(2) shall be considered in establishing annual funding priorities for grants awarded under this subsection.

(f) PROJECT REVIEW AND APPROVAL.—

(1) IN GENERAL.—The Secretary shall review and rank coral reef conservation project proposals according to the criteria described in subsection (g).

(2) PEER REVIEW.—

(A) IN GENERAL.—For projects that have a cost of $25,000 or more, the Secretary shall—

(i) provide for merit-based peer review of the proposal; and

(ii) require standardized documentation of the peer review.

(B) EXPEDITED PROCESS.—For projects that have a cost of less than $25,000, the Secretary shall provide an expedited peer review process.

(C) INDIVIDUAL GRANTS.—As part of the peer review process for individual grants, the Secretary shall request written comments from the appropriate bureaus or departments of the State or other government having jurisdiction over the area where the project is proposed to be conducted.

(3) LIST.—At the beginning of each fiscal year, the Secretary shall make available a list describing projects selected during the previous fiscal year for funding under subsection (g).

(g) PROJECT APPROVAL CRITERIA.—The Secretary shall evaluate and select project proposals for funding based on the degree to which each proposed project—

(1) is consistent with the purposes of this Act; and

(2) would—

(A) promote the long-term protection, conservation, restoration, or enhancement of coral reef ecosystems in or adjoining areas under the jurisdiction of the Department of the Interior;

(B) promote cooperative conservation projects with local communities, nongovernmental organizations, educational or private institutions, affected local governments, territories, or insular areas;

(C) enhance public knowledge and awareness of coral reef resources and sustainable use through education and outreach;

(D) develop sound scientific information on the condition of and threats to coral reef ecosystems through mapping, monitoring, research and analysis; and

(E) increase compliance with laws relating to coral reefs.

(h) REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), not later than 90 days after the date of enactment of this Act, the Secretary shall promulgate regulations to implement this Act.

(2) PROJECT APPROVAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall promulgate regulations to implement subsection (f), including requirements for project proposals.

(3) CONSULTATION.—In developing regulations under this subsection, the Secretary shall identify priorities for coral reef resource protection and conservation in consultation with agencies and organizations involved in coral and marine conservation, including—

(A) the Coral Reef Task Force;

(B) interested States;

(C) regional and local entities; and

(D) nongovernmental organizations.

(i) ADMINISTRATION.—

(1) FOUNDATION INVOLVEMENT.—

(A) AGREEMENTS.—The Secretary may enter into an agreement with 1 or more foundations to accept, receive, hold, transfer, solicit, and administer funds received or made available for a grant program under this Act (including funds received in the form of a gift or donation).

(B) FUNDS.—A foundation that enters into an agreement described in subparagraph (A) shall—

(i) invest, reinvest, and otherwise administer funds described in subparagraph (A); and

(ii) maintain the funds and any interest or revenues earned in a separate interest-bearing account that is—

(I)(aa) an insured depository institution, as the term is defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); or

(bb) an insured credit union, as the term is defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752); and

(II) established by the foundation solely to support partnerships between the public and private sectors that further the purposes of this Act.

(2) REVIEW OF PERFORMANCE.—

(A) IN GENERAL.—Beginning in fiscal year 2000, and biennially thereafter, the Secretary shall conduct a review of each grant program administered by a foundation under this subsection.

(B) ASSESSMENT.—Each review under subparagraph (A) shall include a written assessment describing the extent to which the foundation has implemented the goals and requirements of this section.

(j) TRANSFERS.—

(1) IN GENERAL.—Under an agreement entered into under subsection (i)(1)(A), the Secretary may transfer funds appropriated under section 5(b) to a foundation.

(2) USE OF TRANSFERRED FUNDS.—Amounts received by a foundation under this subsection may be used for matching, in whole or in part, contributions (whether in currency, services, or property) made to the foundation by private persons and State and local government agencies.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $20,000,000 for each of fiscal years 2000 through 2004, to remain available until expended.

(b) LIMITATION ON ADMINISTRATIVE FUNDS.—Not more than 6 percent of the amounts appropriated under this section may be used for program management and administration under this Act.

By Mr. GRAMS:

S. 1889. A bill to amend the Congressional Budget Act of 1974 to provide for joint resolutions on the budget, reserve funds for emergency spending, strengthened enforcement of budgetary decisions, increased accountability for Federal spending; accrual budgeting for Federal insurance programs, mitigation of the bias in the budget process toward higher spending, modifications in paygo requirements when there is an on-budget surplus, and for other purposes; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that when one Committee reports, the other Committee have thirty days to report or be discharged.

COMPREHENSIVE BUDGET PROCESS REFORM ACT OF 1999

Mr. GRAMS. Mr. President, we are now in the final stages of completing the FY 2000 Appropriation bills. We will soon end the first session of the 106th Congress. Looking back, I must say, we have had some successes, and I am proud of these achievements. However, the biggest failure, in my judgment, is that we have failed to learn the lessons from our past two years' experience and we have failed to maintain fiscal discipline due to our seriously flawed budget process.

That's why I rise today to introduce legislation that would reform the federal budget process, strengthen fiscal discipline, and restore government accountability to ensure that taxpayers are fully represented in Washington.

Mr. President, after last year's abuse of the budget/appropriation process, many of us realized that the federal budget process became a reckless game in which the team roster was limited to a handful of Washington politicians and technocrats while the taxpayers were relegated to the sidelines. This not only weakened the nation's fiscal discipline but also undermined the system of checks and balances established by the Constitution.

At the beginning of the 106th Congress, I argued repeatedly in this chamber that the key to a successful Congress was to pursue comprehensive budget process reforms. I introduced legislation to achieve these goals. I was pleased that Senate leaders included budget process reform as one of the top five priorities in the 106th Congress. Unfortunately, that commitment has not yet materialized.

As a result, this year's appropriation process is almost a play-by-play of 1998. Congress over-used advanced appropriations, and used directed scoring, emergency spending and other budgetary techniques to dodge fiscal discipline and significantly increase government spending.

Mr. President, our failure can be traced to our seriously flawed budget process. Twenty-five years ago, Congress tried to change its budget practices and get spending under control by passing the Congressional Budget Act. Yet, over these 25 years, our national debt has grown from $540 billion to $5.7 trillion.

Spending is at an all-time high, and so are taxes. The budget process has become so complicated that most lawmakers have a hard time understanding it. Of course, that hasn't stopped the proliferation of budget smoke and mirrors to circumvent the intent of the Congress. The flawed process allows members to vote to control spending in the budget and then turn right around and vote for increased appropriations. The process encourages spending increases rather than spending control. It encourages continued fiscal abuse, waste, and irresponsibility.

Clearly, we need to immediately pursue comprehensive reform to ensure the integrity of our budget and appropriations process and avoid repeating the same mistakes we made in the past two years. We must do this early in the year before we begin to face appropriation pressures.

This is why I am introducing the Comprehensive Budget Process Reform Act. This legislation is the companion bill of HR 853, which was a bipartisan effort led by Congressmen NUSSLE and CARDIN. It has been reported by the House Budget Committee. There are also a number of good budget reform proposals in the Senate I have earlier supported. Reforms introduced by our Budget Committee Chairman Senator Domenici are important and I strongly support his leadership in this area. My legislation is complementary to but broader than Senator Domenici's efforts.

Mr. President, let me highlight my legislation. The legislation will force us to pass a legally-binding federal budget, set aside funds each year in the budget for true emergencies; strengthen the enforcement of budgetary controls; enhance accountability for Federal spending; display unfunded liabilities for Federal insurance programs; mitigate the bias toward higher spending, modify Pay-As-You-Go (PAYGO) procedures to accommodate budget surpluses; and ensure the Social Security surplus will be protected.

The core of the legislation will provide for an annual joint budget resolution, rather than a concurrent resolution, thus making it a legally binding budget through a law requiring the President's signature.

I believe this is a critical step in reforming the budget process. If Congress and the President agree on a Joint Budget Resolution at the beginning of the process, appropriators in Congress would be legally bound to stay within those spending limits. It forces confrontation at the earliest stages of the budget process, leaving adequate time for legislating detail and minimizing disputes at the end of the process which threaten to shutdown the government.

The second component of the bill will redefine emergency spending and create a reserve fund to pay for emergencies. Emergency spending was traditionally used for unanticipated wars and natural disasters that took life and severely damaged property. Because emergency spending today is effectively exempt from congressional spending controls, Congress and the Administration have used this as an opportunity to bust the budget for a lot of spending that isn't emergency related at all.

Last year alone, Congress appropriated $35 billion for so-called emergencies. This year again, over $24 billion of emergency spending is appropriated. Since 1991, emergency spending has totaled over $145 billion. Most ''emergencies'' were used to fund regular government programs, not unanticipated events. Emergency spending is sought as a vehicle to add on even more spending priorities. This has gone too far. We need a better way to budget for emergencies. Most of this spending can be planned within our budget limits. Even natural disasters happen regularly—why not budget for them?

My legislation will end this abuse of emergency spending. It requires both the President and the Congress to budget up front for emergencies by setting aside dollars in an emergency reserve fund. The reserve fund will contain an amount at least equal to the 5-year historical average of amounts provided for true emergencies. It includes a clear definition of ''emergencies.'' My legislation prohibits release of funds from the reserve pending Budget Committee certification that: (1) A situation has arisen that requires funding for ''the prevention or mitigation of, or response to, loss of life of property, or a threat to national security'', and (2) The situation is ''unanticipated''—with ''unanticipated'' defined as sudden, urgent, unforeseen, and temporary.

In the event that Congress and the President fail to agree on annual appropriation measures by October 1, my legislation will allow the budget resolution signed into law earlier in the year to automatically kick in. This will effectively prevent any future government shutdowns due to disagreements on spending priorities between Congress and the Administration.

Mr. President, the 1995 federal government shutdown is still fresh in our minds. It was the longest shutdown in history and caused financial damage and inconvenience to millions of Americans when the President refused to support a Balanced Budget Act and tax relief for Americans. The shutdown shook the American people's confidence in their government and in their elected officials.

Since 1997, I, along with Senator MCCAIN, have been advocating an automatic continuing resolution, or CR, as we call it, to prevent a government shutdown. I was able to obtain a commitment from the Senate leadership of both parties to pursue this legislation separately in the near future. But no action has followed. If we had an automatic CR, we would not have to go through bitter battles at the end of every fiscal year.

The virtue of an automatic CR is that it would allow us to debate issues concerning spending policy and the merits of budget priorities while we continue to keep essential government functions operating. The American taxpayer will no longer be held hostage to a government shutdown.

Mr. President, there will always be plenty of uncertainties involved in our budget and appropriations process. The automatic kick-in of the budget resolution in the bill I introduce today will work the same as my automatic CR.

Another flaw of the budget process is so-called budget baselines. When a government program is going to increase by 4.5 percent per year, anyone with common sense would think that is a budget increase, not a budget ''cut.'' But under baseline budgeting it could mean ''cut.'' Lee Iaccoca once stated that if business used baseline budgeting the way Congress does, ''they'd throw us in jail.''

This is a typical budget gimmick. Any proposed spending levels below current baselines are perceived as program reductions, allowing some politicians to claim savings while permitting others to claim increases. Baseline budgeting is biased in favor of more spending. It is not honest budgeting but rather very misleading. My legislation would require Congress and the President to use this year's actual spending total as the baseline for the next year's budget. If we decide to spend more than the current year, we are increasing the budget. If we spend less, we are cutting it. Let's call a spade a spade.

Mr. President, we have entered an era of budget surplus. It is estimated that in the next ten years, our strong economy will generate an over $1 trillion non-Social Security surplus. If we don't return this surplus to taxpayers in the form of tax relief and debt reduction, the government will spend it all. However, the current budget process limits our ability to provide tax relief for working Americans.

The budget law requires that all tax cuts be offset with tax increases or cuts in entitlement programs such as Medicare. Tax cuts may not be paid for by cutting discretionary spending, such as wasteful government programs. This rule, called the PAYGO rule, applies regardless of whether there is a surplus or deficit. The PAYGO rule effectively limits options with respect to reducing taxes because it precludes using spending cuts in discretionary programs to offset tax cuts. Thus there is a built-in bias in favor of higher levels of spending and taxation in the current budget process.

My legislation would amend Pay-As-You-Go requirements to permit any portion of the on-budget surplus, excluding Social Security, to be used for tax cuts.

Related to the PAYGO rule reform, my legislation also creates a lockbox to lock in every penny that is saved from floor amendments to appropriations bills and use it to reduce federal government spending. Spending levels in the budget resolution and any caps on discretionary spending would be automatically reduced by the amount in the floor amendment.

The bill requires committees to submit a plan for reauthorizing all programs within their jurisdictions in 10 years. It also prohibits the Congress from considering a bill that creates a new spending program unless it is sunset within 10 years. My legislation also guarantees Members the right to offer amendments subjecting proposed entitlements to the enhanced oversight of the appropriations process.

Under the current budget process, we have over 20 budget functions, and a half dozen different committees with jurisdiction over one budget function. This has complicated the process greatly. To simplify the process, my bill collapses the 20 non-enforceable budget functions currently used into total (aggregate) spending and revenue levels, with separate categories for discretionary and mandatory spending. It is simple, and easy enough for everyone to understand.

Mr. President, a number of the Federal insurance programs (excluding Social Security and Medicare) that have a looming impact on the federal budget are not included in our budget process. The liabilities caused by these programs could be enormous. Budgeting for these liabilities will give us better control over long-term programs. My legislation requires the Congressional Budget Office and the Office of Management and Budget to report periodically on long-term budgetary trends, to help make Members aware of the future budgetary implications of spending programs.

Finally, Mr. President, it's vitally important that we save the entire Social Security surplus, not for government spending, not for tax relief, but exclusively for Social Security.

I believe we need an enforcement mechanism to ensure that Congress and the President do not touch the Social Security surplus. My legislation requires that if any fiscal year's appropriations end up spending the Social Security surplus, a sequestration will be automatically triggered to reduce government spending across the board in the amount of the Social Security surplus that was used. Entitlement programs like Social Security and Medicare would not be cut. In addition, the bill reaffirms the protected status of Social Security under the current budgetary law.

Mr. President, it is true that our short-term fiscal situation has improved greatly due to the continued growth of our economy. However, our long-term financial imbalance still poses a major threat to the health of our future economic security. Without budget process reform, we will find ourselves again and again making the same mistakes which result in bigger government, more spending and more abuse. We need to spend more time on oversight and reauthorizing expiring programs rather than on endless budget battle at the end of every fiscal year.

President Reagan summed up the real problem of our budget process when he pointed out ''this budget process does not serve the best interests of the nation, it does not allow sufficient review of spending priorities, and it undermines the checks and balances established by the Constitution.''

If the Congress adopts the Comprehensive Budget Process Reform Act, it will ensure a budget process that serves the best interests of the nation and allow for careful policy and spending deliberation. That's why I am introducing this legislation today. I urge my colleagues to support this measure.

By Mr. L. CHAFEE:

S. 1891. A bill to amend the Elementary and Secondary Education Act of 1965 to improve literacy through family literacy projects; to the Committee on Health, Education, Labor, and Pensions

THE LITERACY INVOLVES FAMILIES TOGETHER ACT

Mr. L. CHAFEE. Mr. President, today I have the enormous honor of introducing legislation to renew and strengthen the Even Start Family Literacy Act. On October 1, 1985, my father stood at this desk, where I stand today, and introduced the Even Start Act. He did so because of his profound commitment to the most vulnerable and disadvantaged members of our society. As I introduce this bill, which attempts to break the cycle of illiteracy that divides our Nation into haves and have nots, I do so in an effort to continue that commitment to disadvantaged Americans.

Last week, an identical bill was introduced in the House of Representatives by BILL GOODLING, chairman of the House Committee on Education and the Workforce. Chairman GOODLING introduced the original Even Start Act in the House on May 16, 1985. Both versions of the Even Start Act were reintroduced in the 100th Congress and became law as part of the Hawkins-Stafford Elementary and Secondary Improvement Act Amendments of 1987.

There are approximately 40 million Americans who suffer from illiteracy. Like a disease, illiteracy often goes undetected. Like a disease, illiteracy too often is passed from generation to generation. Like a disease, illiteracy is painful for families to endure. There is no certain cure for illiteracy, but by renewing and expanding the Even Start Family Literacy Program, we offer tens of thousands of families hope for a better future.

There are many controversies related to education policy at the local, state and federal levels. There are heartfelt, passionately held opinions about everything from funding levels to particular teaching techniques. Nevertheless, there are a few things on which nearly everyone agrees: parents are their children's first and most important teachers, and children who are read to early and often do better in school than children who are not.

As the father of three young children, reading together is a part of daily life that I take for granted. I suspect that it is difficult for most of the members of this body to imagine what it would be like not to have the ability to sit down with your children or grandchildren to read a favorite story. But for millions of Americans, reading a bedtime story or helping with a son or daughter's homework assignment is impossible.

The Even Start Family Literacy Act brings families together to learn. Parents who do not have a high school degree or its equivalent are eligible for this program. They learn the basic educational skills that enable them to improve their own situations and, perhaps even more importantly, they learn the skills they need to help their children in school. At the same time, children from birth to age 8 receive appropriate educational services.

The bill I am introducing makes two notable changes in the Even Start program. First, it enables a child, who also is receiving title I services, to remain in the Even Start program beyond age 8. It also requires Even Start programs to utilize research-based teaching techniques for children. In addition to these improvements, it authorizes the Institute for Literacy to investigate the most effective means of improving adults' literacy skills, and it increases the authorization level to $500 million so that more families can be served.

Currently, there are four Even Start programs in Rhode Island receiving federal funds. Each of these programs serves between 25 and 40 families. In Newport, the Sullivan School Children's Opportunity Zone/Family Center has entered into an Even Start partnership with New Visions—the local Head Start provider, the Newport Public Library, the Florence Gray Center—which provides housing for low-income families, the Community College of Rhode Island and the Newport Hospital. Half of its participants are non-English readers.

In Woonsocket, the Fairmont School is the Even Start center, with partners from Literacy Volunteers of Northern Rhode Island and Woonsocket Head Start, among others. Three cities and towns—Johnston, North Providence, and Smithfield, have joined together to create the Tri-Town Community Action Even Start Program. Finally, the Cunningham School Even Start Program has established a partnership with Pawtucket Public Schools and Libraries, the Pawtucket Day Nursery, and a range of education and social service providers.

Each of these programs has utilized existing early childhood and adult education services. Together they are striving to address the needs of the whole family.

In the 12 years since the Even Start Program first was created, our nation has been propelled into the information age. Americans are increasingly dependent on technology for a wide range of needs and services. This new age magnifies our need for a literate society. As we continue to experience technological advancements, the educationally disadvantaged fall further behind. I believe that the Even Start Family Literacy Act as reauthorized by this bill—the Literacy Involves Families Together Act—is critically important to our Nation's children, our Nation's families, and our Nation's future.

I see Senator JEFFORDS on the floor. Before I yield to him, I thank him for his generosity to me and for his leadership in the area of education. Chairman JEFFORDS has the daunting task of leading the Senate's efforts to reauthorize the Elementary and Secondary Education Act. From what I know of Senator JEFFORDS, this major undertaking couldn't be in more able hands.

Mr. President, I urge my colleagues to join me as cosponsors of this bill.

Mr. JEFFORDS. Mr. President, we were all deeply saddened just a few days ago at the death of Senator John Chafee. Certainly, that sadness can never diminish completely. But having his son with us today and starting right off by introducing an excellent piece of legislation certainly brings us strong hope for the future.

Mr. President, I commend the Senator from Rhode Island for introducing the Literacy Involves Families Together Act, the LIFT Act. This legislation reauthorizes one of the most effective education programs, Even Start.

The Even Start Act was first introduced in 1985 by Representative BILL GOODLING, chairman of the House Education and Workforce Committee, and our former colleague, Senator John Chafee.

When first created, the goal of the Even Start program was to develop a comprehensive literacy program that improves educational opportunities for disadvantaged families by focusing on parenting education, early childhood education, and adult education. Since its establishment a little over a decade ago, Even Start has grown from 76 local programs serving 2,500 families to an estimated 600 programs assisting over 36,000 parents and 48,000 children.

The most recent evaluation of the Even Start program illustrated that both the adults and children who participated in the program significantly improved their reading and basic education skills. The evaluation specifically pointed out that the educational gap that existed at the beginning of the school year for first term Even Start students was reduced by approximately two-thirds when the Even Start students were tested at the conclusion of the school year.

The most recent national survey of reading achievement by fourth graders indicates that forty-four percent of school age children in this nation are reading below a basic level of achievement.

Sadly, the statistics are also dismal when analyzing adult literacy skills. The most recent National Adult Literacy Survey found a total of 44 million adults, almost 25 percent of the adult population in the United States, were at the lowest literacy level. The lowest literacy level means that 44 million adults in this country have demonstrated difficulty in the reading and writing skills essential for carrying out daily routines. The uniqueness of the Even Start program is that it provides services to the entire family—it enables families to learn together.

I commend my colleague from Rhode Island for making literacy a very high priority. I am especially pleased that he chose to sponsor the reauthorization of the Even Start program which was first introduced to this body by his father.

I look forward to working with the Senator from Rhode Island on the Literacy Involves Families Together Act, the LIFT Act, as a part of the reauthorization of the Elementary and Secondary Education Act which the Senate will consider early next year and on other education and literacy initiatives that will enable all of our Nation's citizens to have the knowledge and skills necessary to compete in the global economy.

I again commend the Senator from Rhode Island for being out here so fast and quick with a very important piece of legislation. I share his enthusiasm and look forward to working with him.

By Mr. DOMENICI (for himself and Mr. BINGAMAN):

S. 1892. A bill to authorize the acquisition of the Valles Caldera, to provide

for an effective land and wildlife management program for this resource within the Department of Agriculture, and for other purposes; to the Committee on Energy and Natural Resources.

THE VALLES CALDERA PRESERVATION ACT

Mr. DOMENICI. Mr. President, in Northern New Mexico there is a truly unique working ranch on an historic Mexican land grant known as Baca Location No. 1. The ranch is currently owned and managed by the Baca Land and Cattle Company, and it comprises most of a collapsed, extinct volcano known as the Valles Caldera. The Valles Caldera is a beautiful place with rolling meadows, crystal-clear streams, roaming elk, and vast stands of Ponderosa pines. I am very proud to announce we are introducing legislation today that will authorize the Secretary of Agriculture to acquire this property which is a truly unique 95,000 acre working ranch in New Mexico.

For Senator BINGAMAN and I, and a few others working on this issue, this is a not-so-instant replay from last year. Last year around this time, Senator BINGAMAN and I announced that we had reached agreement with the President on a comprehensive plan to acquire the Baca Ranch and, at the same time, to provide for disposal of designated surplus land from the Federal inventory. Those two concepts, embodied in Titles I and II of last year's bill, have survived in this new bill.

Title I provides for an innovative trust structure to manage this ranch, when it is purchased by the Federal Government. Title II provides a process for compensating citizens who await Federal payment for land trapped within vast areas of Federal land, so-called ''inholders'', and the orderly disposal of Federal land that has already been declared surplus by the Federal Government.

As you may recall, Senator BINGAMAN began this process with his purchase bill in 1997. The process of purchasing the Baca Ranch for the public was jump-started last summer when President Clinton and I, flying on Air Force One to Washington, reached an agreement on the concept of an innovative trust arrangement to manage the Baca, if it were to become part of Federal land holdings. The President's response led to a number of rounds of negotiations between representatives of the Administration and our offices.

Finally, after literally thousands of hours of discussion at all levels, agreement was reached, we introduced the bill and a similar one was introduced in the House of Representatives. And, in what I frankly admit was almost miraculous, we were able to persuade Congress to provide $40 million in last year's appropriations process as earnest money for any Baca Ranch purchase that might be authorized by Congress.

Then, unexpected disaster struck. The owners of the Baca Ranch decided not to sell the land after all. I said to many of you then that I thought the purchase was dead.

However, like Lazarus the Baca Ranch purchase lives again. I must thank Senator BINGAMAN for his leadership in this matter, Congresswoman WILSON for her extremely effective work behind the scenes in the House to promote the purchase, and the new Congressman from Santa Fe, Mr. UDALL, for his support. And, I must thank the Administration for its commitment.

This kind of cooperation has brought us to this day of good news. Today, Senator BINGAMAN and I again introduce a bill to authorize both the purchase of the Baca Ranch by the federal government and the orderly disposal of surplus lands in order to pay for debts the government owes to ''inholders.'' I understand that Representatives WILSON and UDALL will introduce companion legislation in the House.

Now, let's talk for a moment about the $l0l million price tag the Baca Ranch purchase carries. The $40 million that we won last year from the Appropriations process had been spent. The President didn't ask for it in his budget, logically, since he thought the ranch was no longer for sale. And, the Interior Appropriations Subcommittees in the House and Senate failed to appropriate the $40 million for the same reason—it seemed that the purchase was dead.

However, the President recently announced a $101 million purchase agreement between the federal government and the Dunigan family, the current owners of the Baca Ranch. Quickly, we jumped to action, and in October, the New Mexico delegation succeeded in restoring the $40 million originally approved last year for the purchase. As a member of the Senate Interior Appropriations Subcommittee, I have been involved in talks between congressional negotiators and the White House over several issues in the FY 2000 Interior Appropriations Bill. Those talks have led to a tentative agreement to provide an additional $61 million, on top of the $40 million restored in October, for the Baca Ranch purchase. If the $101 million appropriation becomes law, its release would be subject to congressional authorization of the land acquisition, as well as a review of the ranch appraisal by the Comptroller General of the United States.

This is a terrific development and could very well help in moving this authorizing legislation through Congress next year. The drive to bring this beautiful ranch into public ownership has helped gain this funding. As important as the money, however, is retaining the dual nature of this legislation. This bill contains two major titles: one to authorize purchase of the Baca Ranch, which draws most of the headlines; and the other to begin a major reform in federal land management. The President has signed onto both; we have signed onto both. Both Titles must eventually become law in order for the Baca Ranch purchase to proceed.

I have visited the Baca Ranch, and I can tell you that it is one beautiful piece of property. The Valles Caldera is one of the world's largest resurgent lava domes. The depression from a huge volcanic eruption over a million years ago is more than a half-mile deep and fifteen miles across at its widest point. The land was originally granted to the heirs of Don Luis Maria Cabeza de Vaca under a settlement enacted by Congress in 1860. Since that time, the property has remained virtually intact as a single, large, tract of land.

The careful husbandry of the Ranch by the Dunigan family provides a model for sustainable land development and use. The Ranch's natural beauty and abundant resources, and its proximity to large municipal populations could provide numerous recreational opportunities for hiking, fishing, camping, cross-country skiing, and hunting. The Baca is a unique working ranch. It is not a wilderness area, and can best be protected for future generations by continuing its operation as a working asset through a unique management structure. This legislation provides that unique management under a trust that may allow for its eventual operation to become financially self-sustaining.

Mr. President, because of the ranch's unique character, I am not interested in having it managed under the usual federal authorities, as is typical of the Forest Service, Bureau of Land Management, or the National Park Service. Under the current state of affairs on our public lands, Forest Service and BLM management is constantly hounded by litigation initiated by some of the same groups that wish to bring this ranch into government ownership. The Valles Caldera National Preserve will serve as a model to explore alternative means of federal management and will provide the American people with opportunities to enjoy the Valles Caldera and its many resources.

The unique nature of the Valles Caldera, and its resources, requires a unique management program, dedicated to appropriate development and preservation under the principle of the highest and best use of the Ranch in the interest of the public. Title I of this legislation provides the framework necessary to fulfil that objective. It authorizes the acquisition of the Baca Ranch by the Forest Service. At the same time, it establishes a government-owned corporation, called the Valles Caldera Trust, whose sole responsibility is to ensure that the ranch is managed in a manner that will preserve its current unique character, and provide enumerable opportunities for the American people to enjoy its splendor. Most importantly to me, however, the legislation will allow for the ranch's continued operation as a working asset for the people of north-central New Mexico, without further drawing on the thinly-stretched resources of the federal land management agencies.

I would like to emphasize that both portions of this bill are milestones in federal land management. This legislation independently addresses the acquisition of this unique property for public use and enjoyment, while solving current land management problems related to surplus land disposal and the acquisition of inholdings from owners who truly want to sell their land.

Currently, approximately one-third of New Mexico's land is in federal ownership or under federal management. These public lands are an important resource that require our most thoughtful management. In order to better conserve existing national treasures for future use and enjoyment, we have devised a good plan to dispose of surplus land through sale or exchange into private, State, or local government ownership.

In many cases, it is just too costly to keep this unneeded land under federal ownership, and it can be more effectively managed in other hands. Title II of this bill, the Federal Land Transaction Facilitation Act, calls for the orderly disposition of surplus federal property on a state by state basis, and provides land managers with needed tools to address the problem created by ''inholdings'' within federally managed areas. There are currently more than 45 million acres of privately owned land trapped within the boundaries of Federal land management units, including national parks, national forests, national monuments, national wildlife refuges, and wilderness areas.

In other cases, however, landowners who want out have been waiting generations for the Federal Government to set aside funding and get around to acquiring their property. This legislation directs the Departments of the Interior and Agriculture to reach out to those property owners who want to sell their land. It also instructs the Departments to establish a priority for the acquisition of these inholdings based, in part, on how long the owner has been waiting to sell.

An issue related to the problem created by inholdings is the abundance of public domain land which the Bureau of Land Management has determined it no longer needs to fulfill its mission. Under the Federal Land Policy and Management Act of 1976, the BLM has identified an estimated 4 to 6 million acres of public domain lands for disposal.

Let me simply clarify that point—the BLM already has authority under an existing law, FLPMA, to exchange or sell lands out of Federal ownership. Through its public process for land use planning, when the agency has determined that certain lands would be more useful to the public under private or local governmental control, it is already authorized to dispose of these lands, either by sale or exchange.

The sale or exchange of this land would be beneficial to local communities, adjoining land owners, and federal land mangers, alike.

An orderly process for the efficient sale or exchange of land identified for disposal does not currently exist. The Federal Land Transaction Facilitation Act addresses this problem by providing that a portion of the proceeds generated from the sale of these lands will be used to fulfill all legal requirements for the transfer of these lands out of Federal ownership. The majority of the proceeds generated would be used to acquire inholdings from those who want to sell their land.

The Senate Energy and Natural Resources Committee will schedule hearings to address the many issues regarding Federal purchase of the Baca Ranch in the near future. Congress has tried to resolve the difficult challenges in acquiring this property before, and failed; cooperation among the parties may bring success this time around. I want to thank everyone who has helped in this 18-month-long effort. I believe that in the end, we will be able to stand together and tell the American people that we truly have accomplished two great and innovative things with this legislation.

Mr. President, I am confident that if we get an Interior appropriations bill, the money will be in it. Everyone should know that it is subject to two conditions: A full authorization bill being passed and signed and subject to the General Accounting Office reviewing the procedures for the appraisal of the property and assuring the Congress of what they have done, in a sense with the expertise that is consistent with what must be used in order to satisfy Congress that there is a fair purchase price involved in the agreement.

I yield the floor to my colleague, Senator BINGAMAN.

Mr. BINGAMAN. Mr. President, I thank my colleague and very much appreciate the leadership he has shown on this important issue as well. This is a truly bipartisan effort we have made on behalf of New Mexico. This is not just an issue of the 106th Congress. This is an issue that our Sate has been pursuing for many decades. Back in the early 1960s, one of our predecessors in the Senate, Senator Clinton Anderson, made a valiant effort to bring the Baca Ranch into Federal ownership so the public could enjoy it and so its preservation could be assured for future generations.

After 3 years of effort in that direction, he abandoned the effort because of the infighting that occurred among competing interests. Then, Mr. President, over two years ago I rose in this chamber to introduce a bill to authorize the acquisition of the Baca Location #1, a ranch which comprises about ninety percent of the magnificent Valles Caldera. Today I rise to cosponsor a bill with Sen. DOMENICI that will not only authorize purchase of the Baca Ranch, but also a unique method of management for this property.

A world renowned volcanic caldera sweeping approximately fifty miles in circumference, the Valles Caldera is the ecological heart of the Jemez Mountains. It's unparalleled vast upland meadows broken by forested volcanic domes and intertwined with 27 miles of winding trout streams, are home to a stunning variety of wildlife including: mountain lions, black bear, whitetail deer, redtail hawks, eagles, and wild turkey. It has also been the breeding ground for one of the largest elk herds in the lower forty-eight states.

There has been a desire on the part of the Dunigan family, the current owners of that land, to see that it go into public ownership, and the father of the of the current owners made that attempt before he died. They have recently decided they want to carry through with that wish of his and accordingly, as Senator DOMENICI indicated, the negotiations between the Dunigan family and the Federal Government have proceeded and now have come to a good resolution. This presents us with an incredible opportunity for the American people.

The potential of this land is enormous:

It could be used as a grassbank to allow ranchers to rest and rehabilitate hundreds of thousands of acres of public range land in New Mexico without having to lose production in the process;

It could provide incredible opportunities for scientific study and education, in the geophysical and biological sciences;

It currently is, and could continue to be, one of the premier hunting and fishing destinations in the country;

It's scenic value makes it an ideal location for the film industry. In fact it has often been used as a backdrop for movies, TV series, and commercials;

It presents amazing opportunities for outdoor recreation including, hiking, camping, horseback riding, cross-country skiing, and photography; and

As with many of the scenic wonders in my home state of New Mexico, there are places within the caldera that are of tremendous cultural significance to various Native American tribes in the area.

Clearly if this property were to be brought into public ownership it should be managed to preserve its incredible natural condition, while maintaining a balance with the various ways it could be used and enjoyed. The experiment called for in this bill sets out broad policy goals for the land (to preserve its natural treasures and to make it financially self-sustaining) and establishes a nine member board of trustees that shall set management policy for what would become the Valles Caldera Preserve. By requiring that each trustee have experience from differing but critical perspectives, this trust may be able to reach a balance that will meet the needs of the land and the public.

The nine members of this board would include:

(1) the Supervisor of the Santa Fe National Forest;

(2) the Superintendent of Bandelier National Monument;

(3) a person with expertise in range management and the livestock industry;

(4) a person with expertise in fish and wildlife management including game and non-game species;

(5) a person with expertise in sustainable forest management;

(6) an active participant in a conservation organization;

(7) a person with financial management and business expertise;

(8) a person with expertise in the cultural and natural history of the region; and finally;

(9) someone active in the State or local government in New Mexico familiar with the customs of the local area.

At least five of these trustees would be required to be residents of New Mexico. It would be an experiment, and would expire within twenty years unless it proves successful and is renewed by Congress.

A second part of this bill, not related to the management of the Valles Caldera Preserve, seeks to address the goal of the Federal land management agencies to consolidate their land holdings, by first helping to promote the sale of the widely scattered parcels of land that the Bureau of Land Management has designated ''suitable for disposal,'' and secondly by using the proceeds of those sales towards the acquisition of inholdings within our public lands, areas of critical environmental concern, and other lands of exceptional resource value. This program would be authorized for ten years.

Just as the Baca Ranch can be seen as a large inholding surrounded by federal land which is worthy of public ownership, there are many other inholdings in our national parks, forests, wildlife refuges and public lands, where private owners are willing and eager to sell to government. At the same time, there are some two million acres of public land that the BLM has determined are too remote, isolated, or otherwise situated to make management more of a burden than a benefit to the Federal tax payer.

Often these lands are small 20 and 40 acre parcels surrounded by, or forming checker boarded areas with, private or state land. Though consolidating these lands has long been a goal of Federal land managers, the costs of surveying the land for endangered species, archeological artifacts, and for the purpose of determining a fair market value has hampered these efforts. This bill would create a mechanism to accelerate this work.

Mr. President, this bill is important because it holds the real promise of bringing the entire Valles Caldera into public ownership after so many failures in the past. It represents a compromise which Sen. DOMENICI and I have worked on with the Administration, the House Members of the New Mexico delegation, and with some consultation with the majority staff of the Energy & and Natural Resources Committee. We have also received innumerable comments from various constituencies.

Like all negotiated legislation, each constituency and interest group would like to change a piece here or there. However, I believe it is overall a good bill which meets the broadest concerns raised by those constituencies and should be viewed as a whole rather than in pieces. My sincere hope is that we will be able to pass it substantially as it is early next session.

The other issue that Senator DOMENICI spoke to is the appropriating of funding for the purchase. I also am extremely pleased with that. I know the administration has felt strongly that we should try to get the full funding for the purchase of the ranch accomplished in this session of the 106th Congress before we adjourn. I know Senator DOMENICI has worked hard to accomplish that. I also worked with the Appropriations Committee members and the administration to full fund this purchase. I am very pleased to know that we are going to see that full appropriation at such time as we have an Interior appropriations bill signed into law.

This is an important effort for the State of New Mexico. I believe when the 106th Congress is finally completed, not the end of this week or next week but a year from now, when we look back and see what was accomplished in that 106th Congress that is important to the State of New Mexico and the people of New Mexico, this acquisition of the Baca Ranch will be at the top of the list.

I very much appreciate the good bipartisan effort that has gone into this.

By Mr. BOND:

S. 1893. A bill to amend the Indian Gaming Regulatory Act to prohibit the Secretary of the Interior from taking land into trust for Indian tribes for gaming purposes under certain conditions, and for other purposes; to the Committee on Indian Affairs.

GAMING CLARIFICATION ACT OF 1999

Mr. BOND. Mr. President, today I am introducing a Senate companion bill to legislation sponsored in the other body by the distinguished Representative from southwestern Missouri (Mr. BLUNT). This bill intends to clarify the application of the Indian Gaming Regulatory Act, or IGRA, in Missouri.

Specifically, this bill would prevent Indian Tribes from setting up casino gambling operations in areas of Missouri where non-Indians currently are prohibited from gambling. This is vitally important, if for no other reason than to maintain harmony in these communities. It is also essential to preserve the family-friendly atmosphere that draws so many vacationers to these areas. Branson, Missouri, in particular, has attained national fame as an extraordinarily beautiful area, with fun activities and entertainment suitable for parents and children alike.

An invasion of gambling into this setting would wreck this tremendous asset. It would bring all the well-known pathologies and social problems that accompany gambling. I oppose introducing gambling into these areas and will do all I can to fight it. We must protect the family spirit that makes Branson a national destination for vacationers. We must do likewise for other Missouri communities that offer similar sanctuaries from the hyperactive stress of modern life, as well as great places for residents to raise children, build homes, and do business.

The bill I introduce today is very similar to one I offered in 1997. That bill would also have prevented Tribally owned casinos in areas of Missouri where non-Indian casinos are currently illegal. It became necessary when a Tribe in Oklahoma applied to put land in the small town of Seneca, Missouri into trust status for gambling purposes. They wanted to operate a casino where no one else could do so legally and to do so despite overwhelming community objection. Fortunately, the Interior Secretary indicated to me that he would not approve that application, and the Tribe ultimately withdrew its gambling application. Thus, the issue was satisfactorily resolved without legislation.

More recently, however, a flurry of applications has been filed to put Indian-owned land into trust for non-gambling activities. I am glad the Tribes are finding that non-gambling activities, as proposed uses for these lands, can be more beneficial and more friendly to their communities and neighbors. However, a great many of my constituents are concerned that these trust applications might make it easier to apply for gambling later. They worry that some Tribes might be seeking to approve gambling casinos through the back door. This bill will eliminate that concern by clarifying the meaning of the Indian Gaming Regulatory Act with respect to Missouri.

When the Congress adopted IGRA in 1988, it intended for a State's general policy toward gambling to be considered in evaluating applications by Indian Tribes to start casino operations. Drawing upon past court decisions in this area, the Congress provided that a Tribe might be eligible to conduct casino gambling on their lands in a State ''that permits such gambling for any purpose by any person, organization, or entity.'' Once a State decides to move away from a criminal/prohibitory stance toward gambling, and adopts instead a civil/regulatory stance, Tribes are to have the opportunity to engage in gambling in that State as well. To that end, they may ask the State to negotiate a compact to regulate those casinos.

Generally, this approach helps ensure public peace while also ensuring the Tribes get to participate in gambling on more-or-less the same basis as non-Indians in the State. If the people of a State, through their legislature or through direct legislation, decide to legalize casino gambling ''by any person,

organization, or entity,'' they cannot simply exclude the Tribes in favor of whatever non-Indian gambling companies might have the inside track in the State government. The Tribes are to have the same opportunity as the non-Indian companies.

But, if the people of a State maintain a general prohibition on gambling—whether as an expression of moral opposition or for some other reason—the Tribes will also need to respect this public opinion just like everyone else. I believe this is the situation in Missouri, whose constitution includes just such a general prohibition on casino gambling, with an exception for casinos based on the Missouri and Mississippi Rivers.

Article III of the Missouri Constitution sets out the powers of the Missouri General Assembly. Section 39 of that article makes certain things expressly outside of the legislature's authority. This is where the State's general prohibition on gambling appears. ''The General Assembly shall not have power,'' it says, ''to authorize lotteries or gift enterprises for any purpose, and shall enact laws to prohibit the sale of lottery or gift enterprise tickets.'' It says prohibit, not regulate.

Gambling, in general, is still prohibited by State law. Under section 572.020 of the Missouri Revised Statutes, ''the crime of gambling'' is a class C misdemeanor, unless committed by a professional player, in which case the crime is a class D felony. This means the crime of gambling is punishable by fine of up to $300 in the case of a misdemeanor. A professional player may be fined up to $5,000 or twice the amount of any gain received, up to a limit of $25,000. These criminal offenses also carry potential prison sentences, of 15 days for a misdemeanor and up to 5 years for felony gambling.

The State constitution does not give the General Assembly authority to legalize these crimes. The power to legalize gambling was withheld from the General Assembly by the express terms of the constitution. Any change would require a constitutional amendment, ratified by the voters of Missouri.

The voters did exercise their authority to authorize very limited exceptions, without removing the general prohibition on legalized gambling. In the case of casino gambling, the voters authorized the General Assembly to legalize certain games only on excursion gambling boats and floating facilities docked along the Missouri and Mississippi Rivers. Again, the voters granted these limited exceptions without disturbing the general constitutional prohibition on gambling, which is a criminal offense elsewhere in the State.

The initiative that created this exception took this approach because many areas of Missouri have strong objections to gambling casinos. Particularly in southwest Missouri, many citizens hold strong moral objections to gambling. Many others simply fear that gambling would destroy the family atmosphere that makes the Branson area a desirable and unique vacation spot. Still others are concerned that gambling disproportionately preys on the hopes of the poor, making it a particularly regressive economic activity.

We can see this expression of the community's view in the votes that were cast on the Missouri and Mississippi riverboat casino initiative. In the November 1994 election, voters in Taney county (where Branson is located) voted against the casino initiative 73% to 27%. In Greene county (where southwest Missouri's largest metropolitan area of Springfield is located), 58% of voters opposed the riverboat casinos. Finally, in Newton county (the home of Seneca, Missouri, where a Tribe once sought to impose a casino on the local residents), 62% of voters opposed the constitutional amendment.

Knowing the strength of these communities' opinions on gambling in general, the sponsors of the initiative petition drive had no real alternative but to leave the general gambling prohibition intact while carving out a very narrow geographic exception for Missouri's two major rivers. Otherwise, the initiative would almost certainly have failed statewide as well. Therefore, the constitutional amendment reassured southwest Missourians that they likely would not feel the change directly—it would affect only the two rivers far away from them, and would not bring casinos into the family oriented Branson and Springfield areas. The general constitutional prohibition on gambling stayed in force.

The limited exception for riverboat casinos, therefore, did not change the State's posture on gambling from a criminal/prohibitory one to a civil/regulatory one. In areas such as the Branson, Missouri area, gambling is still a criminal offense. IGRA's requirement that the State negotiate to allow Tribally owned casinos is not triggered, since casino gambling in that area is not permitted by ''any person, organization, or entity.'' As I mentioned earlier, that's the language IGRA uses to trigger a State's obligation to negotiate with the Tribes to create a regulatory compact.

Tribes wanting to operate casinos on the Missouri or Mississippi Rivers might have a case under IGRA, since there are persons, organizations, or entities authorized to gamble there. But this is not true in Branson, Springfield, or other areas off the rivers where gambling is still prohibited and where the General Assembly lacks constitutional authority to legalize it even if it wanted to.

This view of IGRA is not undermined, as some claim, by the Mashantucket Pequot case decided in 1990. In that case, the Mashantucket Pequots sued Connecticut to force the State to negotiate a casino gambling compact because the State authorized ''Las Vegas Nights'' as a fundraising activity for certain nonprofit organizations. Connecticut had argued that the occasional Las Vegas Nights did not mean that the State had decriminalized gambling in general.

However, those nonprofits authorized to operate casinos, even on a very occasional basis, fall within the express language of ''any person, organization, or entity'' used in IGRA, which is what the Second Circuit Court of Appeals found. Allowing nonprofits to engage in some forms of casino gambling did move the State of Connecticut into a civil/regulatory stance on casino gambling. The State did not absolutely prohibit it; it regulated the type of organization permitted to engage in gambling. Thus, IGRA was triggered by the express language of the law.

This is completely different from the situation in Missouri, where all persons, organizations, and entities are flatly prohibited, by criminal law, from casino gambling anywhere but on the Missouri and Mississippi Rivers. The Mashantucket Pequot case does not apply to the Missouri situation. Geographic limitations, like in Missouri, were not at issue in that case.

Thus, the language of this bill does not really change the current policy of IGRA. It simply makes explicit what is already plainly implicit under current legislation and case law. It would take express notice of the provision in Missouri's constitution on gambling and recognize that Missouri still maintains a criminal/prohibitory stance toward gambling off the rivers.

Because some pro-gambling advocates are attempting to read the Mashantucket Pequot case too broadly, trying to make it apply to Missouri when it clearly does not, this bill is essential. In the past, a number of Tribes have tried to use that argument to try to set up casinos in Missouri—even in a small town like Seneca, nowhere near the Missouri or Mississippi Rivers. Because some people are trying to read into the Mashantucket Pequot case a view that is really not there, this bill writes into law the correct interpretation.

I appreciate the hard work my colleague in the other chamber did on this bill, and am glad to have the opportunity to resolve this issue once and for all.

By Mr. THOMAS (for himself and Mr. ENZI):

S. 1894. A bill to provide for the conveyance of certain land to Park County, Wyoming; to the Committee on Energy and Natural Resources.

NORTH CODY, WY LAND CONVEYANCE

Mr. THOMAS. Mr. President, I am pleased to introduce a bill today to provide for the conveyance of economic development land for Park County, WY.

The management of our public lands and natural resources is often complicated and requires the coordination of many individuals to accomplish desired objectives. When western folks

discuss Federal land issues, we do not often have an opportunity to identify proposals that capture and enjoy the support from a wide array of interests; however, the bill Senator ENZI and I are introducing today offers just such a unique prospect. Project coordinators and involved parties have spent a great deal of time incorporating the concerns of various individuals by presenting their plans to agency and congressional representatives.

This parcel of land was identified by the Bureau of Land Management and Bureau of Reclamation as an unsuitable area for public domain and the agencies have recommended that it be disposed of by the Federal Government. The Park County Commissioners subsequently approached the Wyoming Congressional Delegation about allowing the county to pursue economic development efforts that would be beneficial to the local town and surrounding communities. Specifically, this legislation is needed to allow the Federal Government to sell approximately 190 acres of land to Park County, WY for the appraised value of $240,000. The county commissioners intend to work with an economic development group to attract new businesses to the area and allow other companies to expand at an industrial park adjacent to the conveyance land.

Mr. President, this bill enjoys the support of many different groups including county government officials as well as the local community. This proposal will provide for the creation of a number of private sector jobs in a county that has 82 percent Federal land ownership. It is my hope that the Senate will seize this opportunity to allow a local community to improve their livelihoods and economic prospects.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1894

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

SECTION 1. CONVEYANCE OF LAND TO PARK COUNTY, WYOMING.

(a) FINDINGS.—Congress finds that—

(1) the parcel of land described in subsection (d) has been withdrawn from the public domain for reclamation purposes and is managed by the Bureau of Reclamation;

(2) the land has been subject to a withdrawal review, a level I contaminant survey, and historical, cultural, and archaeological resource surveys by the Bureau of Reclamation;

(3) the Bureau of Land Management has conducted a cadastral survey of the land and has determined that the land is no longer suitable for return to the public domain; and

(4) the Bureau of Reclamation and the Bureau of Land Management concur in the recommendation of disposal of the land as described in the documents referred to in paragraph (2).

(b) DEFINITIONS.—In this Act:

(1) COUNTY.—The term ''County'' means Park County, Wyoming.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(c) CONVEYANCE.—In consideration of payment of $240,000 to the Secretary by the County, the Secretary shall convey to the County all right, title, and interest of the United States in and to the parcel of land described in subsection (d).

(d) DESCRIPTION OF PROPERTY.—The parcel of land described in this subsection is the parcel located in the County comprising 190.12 acres, the legal description of which is as follows:

Sixth Principal Meridian, Park County, Wyoming

T. 53 N., R. 101 W.	*Acreage*
Section 20, S½SE¼SW¼SE¼	5.00
Section 29, Lot 7	9.91
Lot 9	38.24
Lot 10	31.29
Lot 12	5.78
Lot 13	8.64
Lot 14	.04
Lot 15	9.73
S½NE¼NE¼NW¼	5.00
SW¼NE¼NW¼	10.00
SE¼NW¼NW¼	10.00
NW¼SW¼NW¼	10.00
Tract 101	13.24
Section 30, Lot 31	16.95
Lot 32	16.30

(e) RESERVATION OF RIGHTS.—The instrument of conveyance under subsection (c) shall reserve all rights to locatable, salable, and leasable oil and gas reserves.

(f) LEASES, EASEMENTS, RIGHTS-OF-WAY, AND SPECIAL USE PERMITS.—The conveyance under subsection (c) shall be subject to any land use leases, easements, rights-of-way, and special use permits in existence as of the date of the conveyance.

(g) ENVIRONMENTAL LIABILITY.—

(1) LIABILITY OF THE FUTURE OWNERS.—

(A) FINDING.—Congress finds that—

(i) the United States has in good faith exercised due diligence in accordance with applicable laws (including regulations), in an effort to identify any environmental contamination on the parcel of land described in subsection (d); and

(ii) the parcel is free of any environmental contamination.

(B) RELEASE FROM LIABILITY.—The United States holds harmless and releases from all liability any future owners of the conveyed land for any violation of environmental law or other contamination problem arising from any action or inaction of any tenant of the land that vacates the lease before the date of the conveyance under subsection (c).

(2) LIABILITY OF TENANTS.—A tenant of the parcel of land described in subsection (d) on the date of the conveyance or thereafter shall be liable for any violation of environmental law or other contamination problem that results from any action or inaction of the tenant after the date of the conveyance.

(h) USE OF LAND.—The conveyance under subsection (c) shall be subject to the condition that the County—

(1) use the land for the promotion of economic development; or

(2) transfer the land to a local organization formed for the purpose of promoting economic development.

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (c) as the Secretary considers appropriate to protect the interests of the United States.

By Mr. LEAHY (for himself and Mr. BAUCUS):

S. 1896. A bill to amend the Public Building Act of 1959 to give first priority to the location of Federal facilities in central business areas, and for other purposes; to the Committee on Environment and Public Works.

THE DOWNTOWN EQUITY ACT OF 1999

Mr. LEAHY. Mr. President, I am pleased to be joined today by my good friend, the senior senator from Montana, Senator BAUCUS, in introducing the ''Downtown Equity Act of 1999.''

The location of federal buildings and facilities have a tremendous impact on local communities. We are introducing the ''Downtown Equity Act'' to ensure that the federal government is a good neighbor that promotes the vibrancy of communities throughout the country.

Guidance for federal agencies on the location of their facilities exists in two executive orders. Unfortunately, these directives are at times inconsistent with each other and have been used to support different goals. This became clear to me when I worked closely with the General Services Administration (GSA), the Immigration and Naturalization Service (INS) and the city of Burlington. In 1998, I called together a meeting with all these interested parties to discuss eligible locations for a new INS facility in downtown Burlington. Officials from the city cited one executive order about locating buildings in downtown areas while INS officials countered with another executive order that promotes the location of federal facilities in rural areas. Instead of complementing one another to promote a reasonable policy, the two executive orders are negating each other and clearly neither have enough teeth to result in the policy proclaimed in either order.

Mr. President, managing a city is a difficult enough task. Mayors and city managers across the country should not have to also wade through dueling executive orders when they share the same goals as the Administration to re-energize town centers. The federal government needs to set a clear policy on the location of federal buildings in downtown areas. Without legislation to clarify this policy, agencies make decisions about the location of buildings and operations that can undercut the viability of central business districts, encourage sprawl, degrade the environment, and have an adverse impact on historical economic development patterns. Federal facilities should be sited, designed, built and operated in ways that contribute to—not detract from—the economic well-being and character of our cities and towns. Federal facilities can have a tremendous impact and we need to make sure that location decisions do not erode the character and quality of life in our cities and towns. I want to prevent a repeat of the experiences in Vermont, and I know that Senator BAUCUS has many of the same concerns in Montana.

The Downtown Equity Act of 1999 clarifies the intention of these dueling executive orders by directing federal officials to give priority to locating federal facilities in central business

areas. This bill does not pit urban areas versus rural areas, but instead promotes the siting of these facilities in downtown areas—urban or rural. By adopting this legislation, the Federal government can become a leader in the effort to limit sprawl and support the economic vitality of central business areas.

There is a fundamental problem with development that our bill also tries to address: it's more expensive to build and rent in a traditional downtown area than to build on an empty site outside of a business district. Downtown areas have great difficulty competing in the procurement process because of the higher costs generally associated with downtown areas. Sometimes, despite the best intentions of federal officials, sites with the lowest absolute cost are predisposed to win. This approach is too simplistic. Our ''Downtown Equity Act of 1999'' directs the General Services Administration to study the feasibility of establishing a system for giving equal consideration to both the absolute and adjusted costs of locating in urban and rural areas, and between projects inside and outside of central business areas. While the absolute cost of projects will always be important, a more balanced and robust consideration of the costs of a project is needed.

The benefits of limiting sprawl, supporting historic development patterns, and revitalizing our downtown central business areas can mitigate the higher costs associated with constructing, leasing, and operating Federal establishments inside central business areas. Unless the overriding mission of the agency or economic prudence absolutely dictate otherwise, location of Federal facilities should be supportive of local growth management plans for downtown central business areas.

When Federal landlords or tenants arrive in town, we have every right to expect that they will be good neighbors. Beyond that, the Federal government also needs to be a leader in the effort to limit sprawl and protect the environment and the character of our cities and towns. Livable and thriving central business districts can be a renewable resource, and the Federal government should be part of the solution, not part of the problem.

Senator BAUCUS and I look forward to working with our colleagues and with the Executive Branch to bring much needed reform to the decision-making process that governs the siting of Federal facilities. We all recognize that decisions to prevent or limit sprawl will always be made locally, but the Federal Government can do much to help our communities act on their decisions. And, the Federal Government must stop being an unwitting accomplice to sprawl by siting buildings outside of downtown areas.

Mr. President, I ask unanimous consent that the text of the bill, and a section-by-section summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1896

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 ''Downtown Equity Act of 1999''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that locating Federal facilities in central business areas—

(1) strengthens the economic base of cities, towns, and rural communities of the United States and makes them attractive places to live and work;

(2) enhances livability by limiting sprawl and providing air quality and other environmental benefits; and

(3) supports historic development patterns.

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

(1) to ensure that Federal agencies recognize the implications of the location of Federal facilities on the character, environment, economic development patterns, and infrastructure of communities;

(2) to ensure that the General Services Administration and other Federal agencies that make independent location decisions give first priority to locating Federal facilities in central business areas;

(3) to encourage preservation of historic buildings and stabilization of historic areas; and

(4) to direct the Administrator of General Services to study the feasibility of establishing a system for meaningful comparison of Federal facility procurement costs between central business areas and areas outside central business areas.

SEC. 3. LOCATION OF FEDERAL FACILITIES.

(a) IN GENERAL.—The Public Buildings Act of 1959 (40 U.S.C. 601 et seq.) is amended by adding at the end the following:

''SEC. 22. LOCATION OF FEDERAL FACILITIES.

''(a) PRIORITY FOR CENTRAL BUSINESS AREAS.—

''(1) IN GENERAL.—Except as provided in paragraph (2) and as otherwise provided by law, in locating (including relocating) Federal facilities, the head of each Federal agency shall give first priority to central business areas.

''(2) EXCEPTION.—The priority required under paragraph (1) may be waived if location in a central business area—

''(A) would materially compromise the mission of the agency; or

''(B) would not be economically prudent.

''(b) IMPLEMENTATION.—

''(1) ACTIONS BY ADMINISTRATOR.—The Administrator shall—

''(A) promulgate such regulations as are necessary to implement the requirements of subsection (a) with respect to locating Federal facilities—

''(i) in public buildings acquired under this Act; and

''(ii) in leased space acquired by the Administrator under section 210(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(h)); and

''(B) report annually to Congress—

''(i) on compliance with subsection (a) by the Administrator in carrying out—

''(I) public building location actions under this Act; and

''(II) lease procurement actions under section 210(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(h)); and

''(ii) on compliance with this section by Federal agencies—

''(I) in acting under delegations of authority under this Act; and

''(II) in the case of lease procurement actions, in using leasing authority delegated under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

''(2) ACTIONS BY FEDERAL AGENCIES.—Each Federal agency shall—

''(A) comply with the regulations promulgated by the Administrator under paragraph (1)(A); and

''(B) report annually to the Administrator concerning—

''(i) the actions of the Federal agency in locating public buildings under this Act; and

''(ii) lease procurement actions taken by the Federal agency using leasing authority delegated under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).''.

(b) DEFINITIONS.—Section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612) is amended by adding at the end the following:

''(8) CENTRAL BUSINESS AREA.—The term 'central business area' means—

''(A) the centralized business area of a community, as determined by local officials; and

''(B) any area adjacent and similar in character to a centralized business area of a community, including any specific area that may be determined by local officials to be such an adjacent and similar area.

''(9) FEDERAL FACILITY.—The term 'Federal facility' means the site of a project to construct, alter, purchase, or acquire (including lease) a public building, or to lease office or any other type of space, under this Act or the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).''.

SEC. 4. STUDY OF PROCUREMENT COST ASSESSMENT METHODS.

(a) DEFINITIONS.—In this section, the terms ''central business area'' and ''Federal facility'' have the meanings given the terms in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612).

(b) STUDY.—Not later than 2 years after the date of enactment of this Act, the Administrator of General Services shall conduct a study and report to Congress on the feasibility of establishing a system for—

(1) assessing and giving equal consideration to the absolute and adjusted comparable costs (as determined under paragraph (2)) of—

(A) locating Federal facilities in rural areas as compared to locating Federal facilities in urban areas;

(B) locating Federal facilities in central business areas of rural areas as compared to locating Federal facilities in rural areas outside central business areas; and

(C) locating Federal facilities in central business areas of urban areas as compared to locating Federal facilities in urban areas outside central business areas;

(2) for the purposes of paragraph (1), adjusting the absolute comparable costs referred to in that paragraph to correct for the inherent differences in property values between rural areas and urban areas; and

(3) assessing and giving consideration to the impacts on land use, air quality and other environmental factors, and to historic preservation, in the location of Federal facilities.

(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 $200,000 for each of fiscal years 2001 and 2002.

SUMMARY OF THE DOWNTOWN EQUITY ACT OF 1999

The ''Downtown Equity Act of 1999'' clarifies a multitude of Federal laws and regulations governing the location of Federal office

space and other facilities by requiring that first priority be given to central business areas. Currently, the location of federal offices and other facilities is governed by several different laws and executive orders, which often creates confusion and conflict. For instance, current law gives a strong preference to locating Federal facilities in rural areas, while an Executive Order (No. 12072) promotes the location of Federal facilities in central business areas. These conflicting policies can have serious adverse consequences to communities, such as promoting sprawl and contributing to the decline of downtown areas.

The ''Downtown Equity Act of 1999'' seeks to eliminate this confusion by establishing a clear, statutory preference for locating Federal facilities in central business areas, both in rural and urban areas. Thus, Federal facilities will help strengthen the economic base of cities, towns and rural communities and make them more attractive places to live and work. Locating Federal facilities in downtown areas will also support historic development patterns, limit sprawl, and have other important environmental benefits.

The bill also requires the General Services Administration (GSA) to study the feasibility of establishing a procurement assessment system which considers both the absolute and adjusted costs of locating Federal facilities between central business areas and outside those areas.

SECTION-BY-SECTION ANALYSIS

Section 1. Title.

Section 2. Finding and Purposes

Section 3. Amends the Public Buildings Act of 1959 (40 USC 601 et seq.) to add a new section establishing a preference for locating Federal facilities in central business areas in both rural and urban areas. This preference could be waived if locating a facility in such area would either materially compromise the mission of the agency or would not be economically prudent. GSA is required to adopt rules to implement this provision and also to report annually to the Congress on the location of Federal agencies under this section. This section also defines ''central business area'' as the centralized business area determined by local officials.

Section 4. This section requires that within two years, the GSA conduct a study and report to Congress on the feasibility of establishing a system for comparing the absolute and adjusted costs of locating Federal facilities in rural areas as compared to urban areas and in central business areas as compared to outside central business areas. The bill authorizes a total of $400,000 for the study.

Mr. BAUCUS. Mr. President, I am pleased to join with my colleague from Vermont, Senator LEAHY in introducing the Downtown Equity Act of 1999. This bill will make the federal government a better partner with local officials when it comes to locating federal offices in a community. It will establish in statute a clear preference for federal offices to be located in the central business areas of a community. Why is this important?

We all know the many problems facing community leaders as they chart the future course of their cities and towns. They must balance development patterns, employment, historic preservation, city services, transportation, and many other factors to arrive at a plan that makes the most sense for them.

In many cases, the Federal government is a major source of employment and economic activity in these communities. That is particularly true in smaller cities and towns, where federal employees can make up a larger percentage of the employment base than in our large metropolitan areas.

But too often, local officials find themselves battling with federal agencies over where to locate, or relocate, Federal facilities. The desires of agencies to locate on the outskirts of a small town can conflict with the needs of the community to preserve a vital business center downtown.

I have seen firsthand some of these location battles in Montana. Communities such as Helena, Billings and Glasgow, have seen agencies threaten to move out of the downtown area, removing a linchpin of economic development that supports other local businesses. In another case, this time in Butte, an agency looked to abandon an historic building downtown in favor of a new site closer to the Interstate.

The impact on these communities from such actions can be devastating. In Helena, for example, the relocation of the federal building would have removed over 400 Federal workers from the area and dealt a major blow to plans to revive the downtown core, known as Last Chance Gulch. And in Glasgow, a small town even by Montana standards, the relocation from the central business area to a new site on the outskirts of town threatened the survival of other businesses downtown and contributed to sprawl. Yes, even in the Big Sky state, sprawl is a threat to the vitality of our communities and the beauty of our environment.

Many of these conflicts between communities and Federal agencies stems from the confusing, and sometimes conflicting, jumble of laws, executive orders, and regulations. It almost seems as if there is a provision to justify almost anything an agency wants to do. One law tells agencies to locate in rural areas. An executive order tells agencies to give priority to central business areas. No wonder agencies are confused and community leaders are angry.

Mr. President, that's not right. We should have a clear, simple to understand policy when it comes to location of Federal facilities. Furthermore, that policy should make it easier for the Federal government to help community leaders who seek to maintain the vitality of their downtown areas. And that is what our bill does.

First, as a matter of policy, it states that locating federal facilities in central business areas is good for the economy and the livability of communities.

But more importantly, the bill implements that policy by requiring that the head of each Federal agency give first priority to central business areas when locating, or relocating, Federal facilities. This requirement could be waived if it would materially compromise the mission of the agency or if it would not be economically prudent. But those would be exceptions to the general rule that downtown areas should be the preferred area for Federal offices. And the downtown areas will be determined by local officials, not Federal agencies.

This bill will be good for our communities. And it will be good for the Federal government.

In closing let me express my appreciation to my colleague from Vermont for all the work that he has put into this issue. His leadership has been instrumental in crafting this bill. I look forward to working with him to bring this bill through the Environment and Public Works Committee and before the Senate early next year.

By Mr. BIDEN:

S. 1897. A bill to amend the Public Health Service Act to establish an Office of Autoimmune Disease at the National Institutes of Health, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

THE NIH OFFICE OF AUTOIMMUNE DISEASES ACT OF 1999

● Mr. BIDEN. Mr. President, today I am introducing the NIH Office of Autoimmune Diseases Act of 1999. This legislation, which is very similar to a bill introduced in the House of Representatives by Congressman Waxman, would create an Office of Autoimmune Diseases as part of the Office of the Director of the National Institutes of Health. I would like to outline briefly why I feel that this office and this legislation are needed.

To understand autoimmune diseases, it is first necessary to talk about the body's immune system. The immune system is a collection of tissues which is designed to fend off any foreign invaders into our body. For example, we live in a world surrounded by microbes of various kinds, many of which would be harmful to us if they could set up shop in our bodies. However, the immune system recognizes that a foreign microbe has entered our body and it mobilizes a variety of defenses to expel this foreign invader.

The critical importance of the immune system can be easily seen when something goes wrong with it. For example, when a baby is born with a major defect in its immune system, it is extremely vulnerable to attacks by bacteria that a healthy baby would be able to fight off. Such immune-deficient babies need to be protected from their environment in order to preserve their lives. You may have seen the TV programs about such ''bubble babies'', who have to spend their entire lives in a protective plastic bubble or a spacesuit.

However, although the immune system is essential for human life, it sometimes can cause problems with our health. When someone gets a kidney transplant, for example, it is the immune system which tries to fight off this ''foreign invader'', a process called rejection. The survival of the transplant requires that the recipient be

given treatment in order to suppress the immune system.

Occasionally, the body's immune system goes haywire and starts to attack the body's own tissues as if they were foreign invaders. This process is called autoimmunity, and diseases in which autoimmunity is thought to play an important role are called autoimmune diseases. The spectrum of human illnesses for which there is evidence of an autoimmune component is extremely broad, ranging from lupus to diabetes to multiple sclerosis. At the National Institutes of Health, these different diseases are often studied in completely different institutes: diabetes in the National Institute of Diabetes and Digestive and Kidney Diseases; lupus in the National Institute of Allergy and Infectious Diseases; multiple sclerosis in the National Institute of Neurological Disorders and Stroke; and so forth.

Despite being studied in different locations, these diseases all have one thing in common: abnormalities of the immune system that lead to an autoimmune process in which the body actually attacks itself. It is vital that researchers on one autoimmune disease understand what research advances are being made on other autoimmune diseases; the key to understanding the autoimmune process in multiple sclerosis might very well be uncovered by a researcher working on autoimmunity in diabetes.

This is where the need for an NIH Office of Autoimmune Diseases arises. Its purpose is to make sure that there is cooperation and coordination across scientific disciplines for all those working on the broad spectrum of autoimmune diseases. Researchers working on autoimmunity in one narrowly defined disease must be able to benefit from research advances in autoimmune research. The history of medicine is replete with examples where breakthroughs in one area were actually a direct consequence of advances in a completely unrelated field.

This bill sets up an Office of Autoimmune Diseases at NIH, along with a broadly representative coordinating committee to assist it. The director of the Office of Autoimmune Diseases will be responsible for setting an agenda for research and education on autoimmune diseases, for promoting cooperation and coordination among the disparate entities that are working on autoimmune diseases, for serving as principal advisor to HHS on autoimmune diseases, for husbanding resources for autoimmune disease research, and for producing reports to keep other scientists and the public informed about progress in autoimmune disease research.

Mr. President, I'd like to explain why I have a particular interest in the area of autoimmune diseases. A very close friend of mine in Delaware, Ms. Tia McDowell, is fighting valiantly against a chronic disease. At present, the treatments for this disease no longer seem to be working very well, so Tia's hope lies in new research advances. Although doctors are not sure what causes Tia's disease, they do think that autoimmunity plays an important part. For Tia, and for others with diseases where autoimmunity is important, I want to make sure that we are moving ahead with research in the most efficient manner possible, and I think that creation of an NIH Office of Autoimmune Diseases is one way to help this process along.

Mr. President, I urge my colleagues to support the NIH Office of Autoimmune Diseases Act of 1999 as something we in Congress can do to help our research scientists conquer this puzzling and pernicious group of diseases. I ask that the text of the bill be printed in the RECORD.

The bill follows:

S. 1897

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 ''NIH Office of Autoimmune Diseases Act of 1999''.

SEC. 2. ESTABLISHMENT OF OFFICE OF AUTOIMMUNE DISEASES AT NATIONAL INSTITUTES OF HEALTH.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by inserting after section 404D the following section:

''AUTOIMMUNE DISEASES

''SEC. 404E. (a) ESTABLISHMENT.—There is established within the Office of the Director of NIH an office to be known as the Office of Autoimmune Diseases (in this section referred to as the 'Office'), which shall be headed by a Director appointed by the Director of NIH.

''(b) DUTIES.—

''(1) IN GENERAL.—The Director of the Office, in consultation with the coordinating committee established under subsection (c), shall carry out the following:

''(A) The Director shall recommend an agenda for conducting and supporting research on autoimmune diseases through the national research institutes. The agenda shall provide for a broad range of research and education activities relating to biomedical, psychosocial, and rehabilitative issues, including studies of the disproportionate impact of such diseases on women.

''(B) The Director shall with respect to autoimmune diseases promote coordination and cooperation among the national research institutes and entities whose research is supported by such institutes.

''(C) The Director shall promote the appropriate allocation of the resources of the National Institutes of Health for conducting and supporting research on autoimmune diseases.

''(D) The Director shall annually prepare a report that describes the research and education activities on autoimmune diseases being conducted or supported through the national research institutes, and that identifies particular projects or types of projects that should in the future be conducted or supported by the national research institutes or other entities in the field of research on autoimmune diseases.

''(2) PRINCIPAL ADVISOR REGARDING AUTOIMMUNE DISEASES.—With respect to autoimmune diseases, the Director of the Office shall serve as the principal advisor to the Secretary, the Assistant Secretary for Health, and the Director of NIH, and shall provide advice to the Director of the Centers for Disease Control and Prevention, the Commissioner of Food and Drugs, and other relevant agencies.

''(c) COORDINATING COMMITTEE.—The Director of NIH shall ensure that there is in operation a committee to assist the Director of the Office in carrying out subsection (b), that the committee is designated as the Autoimmune Diseases Coordinating Committee, and that, to the extent possible, such Coordinating Committee includes liaison members from other Federal health agencies, including the Centers for Disease Control and Prevention and the Food and Drug Administration.

''(d) REPORT.—Not later than October 1, 2001, the Comptroller General shall prepare and submit to the appropriate committees of Congress a report concerning the effectiveness of the Office in promoting advancements in research, diagnosis, treatment, and prevention related to autoimmune diseases.

''(e) DEFINITION.—For purposes of this section, the term 'autoimmune diseases' includes diseases or disorders in which autoimmunity is thought to play a significant pathogenetic role, as determined by the Secretary..

''(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $950,000 for fiscal year 2000, and such sums as may be necessary for each of fiscal years 2001 and 2002.''.●

ADDITIONAL COSPONSORS

S. 188

At the request of Mr. WYDEN, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 188, a bill to amend the Federal Water Pollution Control Act to authorize the use of State revolving loan funds for construction of water conservation and quality improvements.

S. 505

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 505, a bill to give gifted and talented students the opportunity to develop their capabilities.

S. 783

At the request of Mrs. FEINSTEIN, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 783, a bill to limit access to body armor by violent felons and to facilitate the donation of Federal surplus body armor to State and local law enforcement agencies.

S. 964

At the request of Mr. DASCHLE, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 964, a bill to provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes.

S. 1215

At the request of Mr. DODD, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 1215, a bill to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to furnish headstones or markers for marked graves of, or to otherwise commemorate, certain individuals.

S. 1277

At the request of Mr. BAUCUS, the name of the Senator from Missouri

[Mr. ASHCROFT] was added as a cosponsor of S. 1277, a bill to amend title XIX of the Social Security Act to establish a new prospective payment system for Federally-qualified health centers and rural health clinics.

At the request of Mr. GRASSLEY, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1277, supra.

S. 1294

At the request of Mr. INOUYE, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 1294, a bill to direct the Administrator of the Federal Aviation Administration to issue regulations to limit the number of pieces of carry-on baggage that a passenger may bring on an airplane.

S. 1332

At the request of Mr. BAYH, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from New York [Mr. SCHUMER], the Senator from Washington [Mrs. MURRAY], the Senator from California [Mrs. BOXER], the Senator from North Dakota [Mr. CONRAD], the Senator from South Dakota [Mr. DASCHLE], the Senator from North Dakota [Mr. DORGAN], the Senator from Florida [Mr. GRAHAM], the Senator from South Dakota [Mr. JOHNSON], the Senator from Arkansas [Mrs. LINCOLN], the Senator from New Jersey [Mr. TORRICELLI], the Senator from Oregon [Mr. WYDEN], the Senator from Vermont [Mr. LEAHY], and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of S. 1332, a bill to authorize the President to award a gold medal on behalf of Congress to Father Theodore M. Hesburg, in recognition of his outstanding and enduring contributions to civil rights, higher education, the Catholic Church, the Nation, and the global community.

S. 1333

At the request of Mr. WYDEN, the name of the Senator from South Dakota [Mr. JOHNSON] was added as a cosponsor of S. 1333, a bill to expand homeownership in the United States.

S. 1384

At the request of Mr. ABRAHAM, the name of the Senator from Hawaii [Mr. INOUYE] 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. 1464

At the request of Mr. HAGEL, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of S. 1464, a bill to amend the Federal Food, Drug, and Cosmetic Act to establish certain requirements regarding the Food Quality Protection Act of 1996, and for other purposes.

S. 1488

At the request of Mr. GORTON, the names of the Senator from North Dakota [Mr. DORGAN], the Senator from Wyoming [Mr. ENZI], and the Senator from Alabama [Mr. SESSIONS] were added as cosponsors of S. 1488, a bill to amend the Public Health Service Act to provide for recommendations of the Secretary of Health and Human Services regarding the placement of automatic external defibrillators in Federal buildings in order to improve survival rates of individuals who experience cardiac arrest in such buildings, and to establish protections from civil liability arising from the emergency use of the devices.

S. 1494

At the request of Mr. BINGAMAN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1494, a bill to ensure that small businesses throughout the United States participate fully in the unfolding electronic commerce revolution through the establishment of an electronic commerce extension program at the National Institutes of Standards and Technology.

S. 1516

At the request of Mr. ROBB, his name was added as a cosponsor of S. 1516, a bill to amend title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11331 et seq.) to reauthorize the Federal Emergency Management Food and Shelter Program, and for other purposes.

S. 1528

At the request of Mr. LOTT, the names of the Senator from Michigan [Mr. LEVIN] and the Senator from Arizona [Mr. KYL] were added as cosponsors of S. 1528, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 1539

At the request of Mr. DODD, the name of the Senator from Maine [Ms. COLLINS] was added as a cosponsor of S. 1539, a bill to provide for the acquisition, construction, and improvement of child care facilities or equipment, and for other purposes.

S. 1619

At the request of Mr. DEWINE, the names of the Senator from Alabama [Mr. SESSIONS] and the Senator from Idaho [Mr. CRAPO] were added as cosponsors of S. 1619, a bill to amend the Trade Act of 1974 to provide for periodic revision of retaliation lists or other remedial action implemented under section 306 of such Act.

S. 1693

At the request of Mr. GRAMS, the name of the Senator from Arizona [Mr. KYL] was added as a cosponsor of S. 1693, a bill to protect the Social Security surplus by requiring a sequester to eliminate any deficit.

S. 1771

At the request of Mr. ASHCROFT, the name of the Senator from Ohio [Mr. VOINOVICH] was added as a cosponsor of S. 1771, a bill to provide stability in the United States agriculture sector and to promote adequate availability of food and medicine for humanitarian assistance abroad by requiring congressional approval before the imposition of any unilateral agricultural medical sanction against a foreign country or foreign entity.

S. 1798

At the request of Mr. LEAHY, the name of the Senator from Connecticut [Mr. LIEBERMAN] 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. 1858

At the request of Mr. BREAUX, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1858, a bill to revitalize the international competitiveness of the United States-flag maritime industry through tax relief.

SENATE RESOLUTION 128

At the request of Mr. COCHRAN, the names of the Senator from Vermont [Mr. JEFFORDS] and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of Senate Resolution 128, a resolution designating March 2000, as ''Arts Education Month.''

SENATE RESOLUTION 216

At the request of Mr. CAMPBELL, the names of the Senator from North Dakota [Mr. DORGAN], the Senator from Maryland [Ms. MIKULSKI], the Senator from Mississippi [Mr. LOTT], the Senator from Michigan [Mr. LEVIN], the Senator from Florida [Mr. GRAHAM], the Senator from New York [Mr. SCHUMER], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from California [Mrs. FEINSTEIN], the Senator from Connecticut [Mr. DODD], the Senator from Virginia [Mr. WARNER], the Senator from Nevada [Mr. BRYAN], the Senator from Michigan [Mr. ABRAHAM], the Senator from Montana [Mr. BAUCUS], the Senator from Louisiana [Ms. LANDRIEU], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Washington [Mr. GORTON], the Senator from Arkansas [Mrs. LINCOLN], the Senator from Maine [Ms. COLLINS], the Senator from Kansas [Mr. BROWNBACK], the Senator from Louisiana [Mr. BREAUX], the Senator from Wisconsin [Mr. FEINGOLD], and the Senator from Nebraska [Mr. KERREY] were added as cosponsors of Senate Resolution 216, a resolution designating the Month of November 1999 as ''National American Indian Heritage Month.''

SENATE RESOLUTION 217

At the request of Mr. HUTCHINSON, the names of the Senator from Illinois [Mr. DURBIN] and the Senator from Vermont [Mr. LEAHY] 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 224

At the request of Mr. ROBB, his name was added as a cosponsor of Senate Resolution 224, a resolution expressing

the sense of the Senate to designate November 11, 1999, as a special day for recognizing the members of the Armed Forces and the civilian employees of the United States who participated in the recent conflict in Kosovo and the Balkans.

At the request of Mr. CONRAD, his name was added as a cosponsor of Senate Resolution 224, supra.

AMENDMENT NO. 2667

At the request of Mr. FEINGOLD, the names of the Senator from Rhode Island [Mr. REED], the Senator from Vermont [Mr. LEAHY], the Senator from Illinois [Mr. DURBIN], the Senator from New Jersey [Mr. TORRICELLI], and the Senator from Massachusetts [Mr. KENNEDY] 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.

AMENDMENT NO. 2761

At the request of Mr. SCHUMER, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of amendment No. 2761 proposed to S. 625, a bill to amend title 11, United States Code, and for other purposes.

SENATE RESOLUTION 226—EXPRESSING THE SENSE OF THE SENATE REGARDING JAPANESE PARTICIPATION IN THE WORLD TRADE ORGANIZATION

Mr. BAUCUS (for himself and Mr. GRASSLEY) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 226

Whereas Japan is the world's second largest economy with exports and imports together equal to one-fifth of its gross domestic product;

Whereas Japan is the second largest trading partner of the United States and sends almost one-third of its exports to the United States;

Whereas prosperity and growth in Japan, one of the primary beneficiaries of the liberal international trading system, is dependent on the maintenance of open markets throughout the world;

Whereas prosperity in the Asian region and globally requires open markets in Japan;

Whereas Japan has a profound interest in ensuring that the World Trade Organization continues to thrive and develop, and that world markets are open on the basis of a rules-based system that is widely supported by governments, businesses, nongovernmental organizations, and average citizens throughout the world;

Whereas Japan's dependence on open markets requires Japan to take a leadership role, rather than a defensive posture, in the next round of multilateral trade negotiations;

Whereas support for free trade in the United States and in many other countries has become increasingly fragile;

Whereas the world's major trading nations, including Japan, have a special responsibility to take the measures necessary to strengthen a consensus for free trade;

Whereas Japan's importation of manufactured goods, as a share of its gross domestic product, is considerably lower than that of other industrialized nations and is one of the lowest of all nations reporting data to the World Bank;

Whereas Japan has one of the lowest levels of intra-industry trade in the industrialized world according to the Organization for Economic Cooperation and Development;

Whereas even in the case of rice where some progress was made at the Uruguay Round, the Government of Japan agreed to a tariff-rate quota, yet set the over quota tariff rate at a level that is currently equivalent to approximately a 500 percent ad valorem duty, thus drastically reducing the possible market impact of the concession;

Whereas Japan is protecting its trade-distorting policies in the areas of agriculture, forestry, and fishing and is trying to shift the focus of the next round of multilateral trade negotiations away from concessions and liberalization of its trade-distorting policies in these areas;

Whereas there is a concern that in the previous rounds of multilateral trade negotiations, the Government of Japan has been able to minimize the commitments it made;

Whereas there is a concern that the Government of Japan may be able to minimize the actual implementation of commitments through formal government measures and informal government guidance to counter the effects of those commitments on liberalization;

Whereas reducing Japanese tariffs and eliminating traditional nontariff barriers appears to have less of an effect than expected on improving market access in Japan in many sectors because of the complex and opaque network of systemic barriers that continue to exist in much of Japan's economic system;

Whereas despite the fact that Japan is a full participant in the WTO Agreement on Government Procurement and appears to be making concessions equal in value to the concessions made by other parties, Japan has not opened the government procurement market to the degree expected by the United States and other trading partners;

Whereas because of the impediments in the Japanese government procurement market that were not addressed by the GATT and the WTO, the United States has had to negotiate bilateral government procurement agreements covering computers, telecommunications equipment, medical products, satellites, and supercomputers;

Whereas the Government of Japan has called for reopening the WTO Agreement on the Implementation of Article VI of the GATT 1994 (the Antidumping Agreement), and supports similar efforts by other nations, which would result in reducing the effectiveness of United States trade law and the ability of the United States to take action against the injurious and unfair trade practice of dumping;

Whereas the advanced tariff liberalization process would be further along but for the opposition of Japan at the Asia-Pacific Economic Cooperation forum; and

Whereas a focus on Japanese practices and commitments at the next round of multilateral trade negotiations is more important than ever because the trade laws of the United States, such as section 301 of the Trade Act of 1974, section 1377 of the Omnibus Trade and Competitiveness Act of 1988, and title VII of the Omnibus Trade and Competitiveness Act of 1988, have been significantly weakened as a result of agreements concluded during the Uruguay Round: Now, therefore, be it

Resolved, That it is the sense of the Senate that the appropriate officials in the executive branch—

(1) should include, in the United States negotiating objectives for the next round of multilateral negotiations, specific expectations as to how the negotiations will result in changes in the Japanese market;

(2) should pay special attention to commitments required of the Government of Japan in the next round of negotiations and ensure that commercially meaningful Japanese concessions equivalent to concessions made by other major trading nations will lead to market change in Japan;

(3) should cooperate closely with other major trading nations to ensure that the next round of negotiations results in genuine change in Japan's markets.

(4) should consult closely with Congress throughout the next round of negotiations about the specific impact of the negotiations on Japan's markets, and should provide periodic reports, with full input from the private sector, about progress being made in addressing Japanese barriers within the negotiations;

(5) should devote the resources needed to analyze market barriers in Japan and to analyze how these market barriers can be addressed in the next round of negotiations; and

(6) should work closely with United States manufacturers, service providers, and nongovernmental organizations to develop the priority areas for focusing United States efforts with respect to Japan in the next round of negotiations and to determine the progress being made in meeting those priorities.

SENATE RESOLUTION 227—EXPRESSING THE SENSE OF THE SENATE IN APPRECIATION OF THE NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE

Mr. BOND (for himself, Mr. BRYAN, Mr. BINGAMAN, Mr. JOHNSON, Mr. KENNEDY, and Mr. ROCKEFELLER) submitted the following resolution; which was referred to the Committee on Armed Services:

S. RES. 227

Whereas the National Committee for Employer Support of the Guard and Reserve (NCESGR) was established by Presidential proclamation issued in 1972;

Whereas national defense planners at that time, anticipating the end of the draft under the Military Selective Service Act, foresaw the potential that the Nation's reserve component forces would be used increasingly to meet national security requirements, that the operations of members' civilian employers would be disrupted by that development, that employers accustomed to National Guard and Reserve service being an alternative to compulsory active duty service would question the necessity for volunteer participation in the Nation's community-based defense forces, and that the employers' support for Guard and Reserve service would erode;

Whereas, to counteract those potential problems, the National Committee for Employer Support of the Guard and Reserve was chartered to develop public understanding of the National Guard and Reserve forces and to enlist the support of employers of members of the reserve components in the development of personnel policies and practices that encourage employee participation in National Guard and Reserve programs;

Whereas, for over 25 years, the National Committee for Employer Support of the Guard and Reserve has informed employers of the ever-increasing importance of the National Guard and Reserve, explaining to employers the necessity for, and the role of, these forces in national defense;

Whereas there are over 4,200 Employer Support of the Guard and Reserve (ESGR) volunteers from among the business, civic, and community leaders in committees in all 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam;

Whereas the ESGR volunteers carry out a variety of programs and services to inform communities and employers about the vital role of the National Guard and Reserve;

Whereas ESGR volunteers honor with suitable recognition the many employers who actively support employee participation in the National Guard and Reserve;

Whereas ESGR volunteers educate employers of members in the National Guard and Reserve and those employees about the rights and obligations regarding military leave that were established or reaffirmed by the Uniformed Services Employment and Reemployment Rights Act of 1974;

Whereas, to underscore the important role of the National Guard and Reserve in our national defense, the National Committee for Employer Support of the Guard and Reserve developed the Statement of Support program under which employers of members of the reserve components are invited to declare their support for their employees' participation in the National Guard and Reserve;

Whereas the first statement of support under the program was signed by the Chairman of the Board and Chief Executive Officer of General Motors in the Office of the Secretary of Defense on December 13, 1972;

Whereas the next day, President Richard Nixon signed a statement of support covering all Federal civilian employees and, since then, Presidents Ford, Carter, Reagan, Bush, and Clinton have all made the same commitment;

Whereas thousands of other employers nationwide have likewise signed statements of support for service of their employees in the reserve components;

Whereas nearly 50 percent of America's total military might is composed of National Guard and Reserve component members;

Whereas despite the ending of the Cold War in 1989, the military commitments of the United States have not diminished;

Whereas the Nation's reserve components are being called upon more than ever before to contribute to the protection of our national security interests and are critical contributors to that mission;

Whereas, during the Persian Gulf War in 1990 and 1991, more than 260,000 Reserves were called to active duty to support military operations in the Persian Gulf region;

Whereas National Guard and Reserve members contribute over 13,000,000 duty days yearly in support of military operations and exercises worldwide, which is a rate of duty that is 13 times greater than the rate of duty experienced during the Cold War; and

Whereas employers, public officials, military leaders, and military members rely on the National Committee for Employer Support of the Guard and Reserve to promote public and private understanding of the National Guard and Reserve in order to obtain the employer and community support that is necessary to ensure the availability and readiness of reserve component forces: Now, therefore, be it

Resolved, That—

(1) it is the sense of the Senate that the National Committee for Employer Support of the Guard and Reserve makes vital contributions to enabling the National Guard and Reserve to support the national security strategy while, at the same time, acting on behalf of the Nation's employers to ensure that their interests are represented with equity and fairness; and

(2) the Senate congratulates the National Committee for Employer Support of the Guard and Reserve, its staff, and volunteers for their commitment to our national defense, for their contribution of time and talent, and for maintaining the much needed support of employers and communities for the National Guard and Reserve.

SENATE RESOLUTION 228—MAKING CHANGES TO SENATE COMMITTEES FOR THE 106TH CONGRESS

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 228

Resolved, That notwithstanding the provisions of S. Res. 400 of the 95th Congress, or the provisions of rule XXV, the following changes shall be effective on those Senate committees listed below for the 106th Congress, or until their successors are appointed:

Committee on Intelligence: Add Mr. Mack.

SENATE RESOLUTION 229—MAKING CERTAIN MAJORITY APPOINTMENTS TO CERTAIN SENATE COMMITTEES FOR THE 106TH CONGRESS

Mr. LOTT submitted the following resolution; which was considered and agreed to:

S. RES. 229

Resolved, That notwithstanding the provisions of rule XXV, the following shall constitute the majority membership of those Senate committees listed below for the 106th Congress, or until their successors are appointed:

Committee on Finance: Mr. Roth (Chairman), Mr. Grassley, Mr. Hatch, Mr. Murkowski, Mr. Nickles, Mr. Gramm, Mr. Lott, Mr. Jeffords, Mr. Mack, Mr. Thompson, and Mr. Coverdell.

Committee on Foreign Relations: Mr. Helms (Chairman), Mr. Lugar, Mr. Hagel, Mr. Smith of Oregon, Mr. Grams, Mr. Brownback, Mr. Thomas, Mr. Ashcroft, Mr. Frist, and Mr. Chafee.

Committee on Environment and Public Works: Mr. Smith of New Hampshire (Chairman), Mr. Warner, Mr. Inhofe, Mr. Thomas, Mr. Bond, Mr. Voinovich, Mr. Crapo, Mr. Bennett, Mrs. Hutchison, and Mr. Chafee.

Committee on Ethics: Mr. Roberts (Chairman), Mr. Smith of New Hampshire, and Mr. Voinovich.

SENATE RESOLUTION 230—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO GOVERNMENT DISCRIMINATION IN GERMANY BASED ON RELIGION OR BELIEF

Mr. ENZI (for himself and Ms. LANDRIEU) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 230

Whereas government discrimination in Germany against individuals and groups based on religion or belief violates Germany's obligations under the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Helsinki Accords, which provide that member states must ''recognize and respect the freedom of the individual to profess and practice alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience'';

Whereas the 1993 through 1998 State Department Country Reports on Human Rights Practices in Germany have disclosed acts of Federal, State, and local government discrimination in Germany against members of minority religious groups, including Charismatic Christians, Muslims, Jehovah's Witnesses, and Scientologists;

Whereas State Department Human Rights Reports on Germany have also disclosed acts of government discrimination against United States citizens because of their religious beliefs;

Whereas State Department Human Rights Reports on Germany have disclosed discrimination based on religion or belief in Germany in such forms as exclusion from government employment and political parties; the use of ''sect-filters'' (required declarations that a person or company is not affiliated with a particular religious group) by government, businesses, sports clubs, and other organizations; government-approved boycotts and discrimination against businesses; and the prevention of artists from performing or displaying their works;

Whereas United Nations reports have disclosed discrimination based on religion or belief in Germany, and a 1997 report by the United Nations Special Rapporteur for Religious Intolerance concluded that the Government of Germany ''must implement a strategy to prevent intolerance in the field of religion and belief'';

Whereas the 1998 report of the State Department's Advisory Committee on Religious Freedom Abroad warned that unless the work of the German Government's Parliamentary Inquiry Commission on ''so-called sects and psycho-groups'', which investigated dozens of religious groups, including Mormons and other minority Christian groups, ''focuses [its] work on investigating illegal acts, [it] runs the risk of denying individuals the right to freedom of religion or belief'', and the Committee specifically reported that ''members of the Church of Scientology and of a Christian charismatic church have been subject to intense scrutiny by the Commission, and several members have suffered harassment, discrimination, and threats of violence''; and

Whereas in 1997, a United States immigration judge granted a German woman asylum in the United States, finding that she had a well-founded fear of persecution based on her religious beliefs if she returned to Germany: Now, therefore, be it

Resolved, That the Senate—

(1) urges the Government of Germany to uphold its commitments to ''take effective measures to prevent and eliminate discrimination against individuals or communities on the grounds of religion or belief'' and ''foster a climate of mutual tolerance and respect between believers of different communities'', as required by the Organization on Security and Cooperation in Europe's Vienna Concluding Document of 1989;

(2) urges the Government of Germany to enter into a constructive dialogue with minority groups subject to government discrimination based on religion or belief;

(3) continues to hold the Government of Germany responsible for protecting the right of freedom of religion or belief of United States citizens who are living, performing, doing business, or traveling in Germany; and

(4) calls upon the President to assert the concern of the United States Government to the Government of Germany regarding government discrimination in Germany based on religion or belief.

● Mr. ENZI. Mr. President, I rise to submit a resolution concerning religious discrimination in Germany with

my colleague, the distinguished Senator from Louisiana, Ms. LANDRIEU. The resolution urges the German government to eliminate religious discrimination within its country because I believe, as a matter of general government policy, no religion or belief should be discriminated against. Anytime the government collects or allows businesses to collect and use information that marks an individual as being different, it is discriminatory and it is wrong. This is a human rights issue. An individual or a group should be allowed to worship in private without public repercussions.

A letter sent to me from the Department of State in August, states ''Wherever it may occur, discrimination against an individual or group is a fundamental human rights violation, and the United States government is still very concerned about incidents of discrimination in Germany.'' The Department of State Human Rights Reports on Germany have disclosed discrimination based on religion or belief in Germany in such forms as: exclusion from government employment and political parties; the use of ''sect-filters'' (required declarations that a person or company is not affiliated with a particular religious group) by government, businesses, sport clubs, and other organizations; government-approved boycotts and discrimination against businesses; and, the prevention of artists from performing or displaying their works.

I also am aware of the possibilities of United States companies based in Germany being coerced by the German government to discriminate against American and other employees based on their beliefs. We have a number of German companies conducting business in the United States. I do not want to see these discriminatory practices imported to our country. This issue of government discrimination is not solely contained within the borders of Germany.

The resolution is simple and straightforward. It urges the German government to enter into a constructive dialogue with minority groups subject to government discrimination based on religion or belief. The resolution also calls upon the president to assert the United States' concern to Germany regarding government discrimination based on religion or belief.

If the goal of a world functioning under a flag of democratic freedom is to be realized, the leaders of the free world must set the example. Germany is a leader in the European and world communities. Germany also is a strong United States ally. It is my hope that the German government will allow its country men and women to be leaders of a free society where an individual's beliefs are the sole decision of the individual rather than a matter of state.

Mr. President, I would like to submit for the RECORD a letter I sent to the Department of State on July 16, 1999 as well as the Department of State's response to my letter.

The material follows:

UNITED STATES SENATE,
Washington, DC, July 16, 1999.

Hon. MARC GROSSMAN,
Assistant Secretary of State for European Affairs, State Department, Washington, DC.

DEAR MR. GROSSMAN: Over the past six years there has been a steady increase in the number of religious freedom violations in Germany. These violations have been noted in the State Department Human Rights Country Reports on Germany and the 1998 report of the State Department Advisory Committee on Religious Freedom. They have also been a matter of concern to various human rights groups. All of these reports have described both government and private sector discrimination against individuals and groups, including American citizens, because of their religious beliefs.

Last November, several of my colleagues in the Senate and I wrote to Chancellor Schroeder to express our concerns about this discrimination and the need for dialogue between the German Government and representatives of various religious groups. When we finally received a reply to our inquiry from the German Foreign Office in March, it was accompanied with a copy of the ''Religious Freedom'' section of the 1998 State Department Human Rights Report on Germany with a note stating that the 1998 Report revised ''certain views found in former reports.'' We were quite disappointed that the Foreign Office reply largely ignored our concerns. While I do not share the German view that the 1998 Human Rights Report signaled that the State Department is no longer concerned with religious discrimination in Germany, I find the German Government's perception of the Report troubling.

One religious group in Germany that has been the subject of the State Department reports is the Christian Community in Cologne (CCK), an 1,100 member Church headed by an American, Pastor Terry Jones. The 1998 Report stated that virtually no incidents of harassment, discrimination, or death threats have been directed at CCK members since 1992. However, I have seen statements from Pastor Jones, along with other reports and news stories that indicate that the CCK has been the subject of discrimination since 1992. Tax difficulties aside, the CCK has been subject to harassment by government ''sect'' commissions, threats of violence, and members being denied jobs and child custody because of their Church affiliation. The sources of these reports include the 1998 Interim Report of the State Department Advisory Committee on Religious Freedom Abroad; an April 1998 CNN Worldview story; the testimony of a CCK representative at a September 1997 hearing before the Commission on Security and Cooperation in Europe (CSCE); and a May 1997 Report from the British House of Lords. Also, in testimony before the CSCE in July 1998, a representative from the Center for the Study of New Religious Movements criticized Germany for police raids that have occurred against small, independent Pentacostal churches. The Universal Life Church has also suffered discrimination in Germany. Press reports indicate that members of this Christian Church lost their jobs, not because of any wrongdoing, but because of their commitment to their faith.

Another minority group that has been subject to significant discrimination in Germany is the Church of Scientology and its members. The documentation of discrimination against both Americans and Germans based solely on their Church membership seems irrefutable. I especially find the growing governmental use and sponsorship of ''sect-filters'' disturbing. Nonetheless, in spite of all this evidence and documentation, the German Government seems to believe the State Department has revised its views as to the existence of religious discrimination in their country. I have also seen media reports that characterized the 1998 Report as effectively ending earlier State Department criticism of Germany for its treatment of Scientologists.

I cannot believe these characterizations of the Human Rights Report are an accurate representation of the position of the State Department on these matters. Clearly, the matter of religious discrimination and persecution in Germany needs to be reviewed and the position of the State Department clarified. That review should include a thorough evaluation of the problem, the extent to which the German government is responsible for these actions, and a determination of the appropriate response for these actions, and a determination of the appropriate response of the United States Government to this serious situation.

As I mentioned earlier, the letter sent to Chancellor Schroeder by my Senate colleagues and I expressed the belief that an open and direct dialogue between the German Government and minority religious groups was sorely needed. In particular, I am aware that the State Department had undertaken efforts to establish such a dialogue between the German Government and the Church of Scientology. I applaud this effort. Unfortunately, I understand that the German Government has refused to enter into any such dialogue. Is the State Department considering any steps it can take to encourage such a discussion?

Given Germany's strong commitment to democracy, I am troubled by the continuing reports and the evidence of government sponsored discrimination in Germany against minority religious groups. For Germany to abide by its international treaty commitments it must respect the beliefs of all religious groups. At whatever level it occurs, it remains the responsibility of the German Federal Government to ensure that the entire country complies with its international human rights treaty obligations. This should especially be true when American citizens are involved.

While I commend the efforts of the State Department to address discrimination in Germany based on religion or belief, it is very important for your Human Rights Country Report on Germany to be clarified so that the position of the State Department on this issue is unmistakably clear. I hope to work with you to resolve these important issues and look forward to your reply to my letter at your earliest opportunity.

Sincerely,

MICHAEL B. ENZI,
U.S. Senator.

U.S. DEPARTMENT OF STATE,
Washington, DC, August 25, 1999.

Hon. MICHAEL B. ENZI,
U.S. Senate.

DEAR SENATOR ENZI: Thank you for your July 16 letter regarding religious freedom violations in Germany and the State Department's 1998 Human Rights Report. I am responding on behalf of Assistant Secretary Grossman. Your letter raises several important issues concerning ongoing efforts at the State Department to work with German officials and affected minority groups to end discrimination in Germany based on religion or belief. Wherever it may occur, discrimination against an individual or group is a fundamental human rights violation, and the United States Government is still very concerned about incidents of discrimination in Germany. As the past six years of Human Rights Reports indicate, religious discrimination in Germany continues to take place

and the Department of State is committed to addressing issues of religious intolerance.

We, too, were puzzled with characterizations of the 1998 Human Rights Report as ending criticism of Germany. While we would rather devote our time to working with the German government on ways to end discrimination in Germany based on religion or belief, it is also very important to express criticism and concern with ongoing German discriminatory actions and policies. This critical review is one of the primary purposes of the annual Human Rights Report. To interpret the 1998 Report's greater inclusion of German government statements attacking minority groups and rationalizing discriminatory acts and policies as State Department agreement with such statements is wrong.

Perception of the report aside, we are particularly concerned with growing use of sect filters in Germany which prevent a person from practicing his or her profession or participating in public and private fora, solely based on that person's religion or belief. This clearly discriminatory practice is being used by the Federal Ministry of Economics, state governments, private businesses and other organizations in Germany. We have discussed with German state and federal authorities the violation of individual rights posed by sect-filters and will continue our efforts to end the use of such filters.

On the subject of discrimination against the Evangelical churches in Germany, specifically the Christian Community in Cologne (CGK), U.S. Embassy personnel have met with two associate pastors of the CGK. We have been unable to meet with Pastor Jones, the leader of the church who testified before the Commission on Security and Cooperation in Europe in 1997 about discrimination. The two pastors interviewed did describe incidents of religious discrimination in child custody and employment situations. However, until we are able to verify these allegations of discrimination, the State Department is reluctant to include such examples in an official report.

Over the past year, State Department officials in Washington and Germany have undertaken a determined effort to bring together representatives of the Church of Scientology with representatives of the German Federal Government to open a dialogue on issues of concern. To our dismay, the German Government has refused to meet with Scientology representatives. Regardless of what the German Government thinks about the nature and philosophy of Scientology, refusal to enter into a constructive dialogue is troubling. We will continue to press the German Government to take this step.

As your letter correctly states, Germany is obligated by various international human rights treaties to respect the freedom of an individual to worship alone or in community with other religious or beliefs acting in accordance with the dictates of his own conscience. And no matter at what level discrimination occurs, it is the responsibility of the German Federal Government to ensure that the entire country complies with its international human rights treaty obligations. We look forward to working with you and other Members of Congress to that end in Germany.

I hope our response has addressed your concerns. Please do not hesitate to contact us if you have further questions about this or any other matter.

Sincerely,

BARBARA LARKIN,
Assistant Secretary, Legislative Affairs.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, November 9, 1999, at 2:00 p.m. to consider certain pending military nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, November 9, 1999, to conduct a mark-up on pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Governmental Affairs Committee be authorized to meet on Tuesday, November 9, 1999, at 10:00 a.m., for a hearing entitled ''Private Banking and Money Laundering: A Case Study of Opportunities and Vulnerabilities.''

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENTIAL MESSAGES

The following messages were received in the Senate on November 8, 1999:

CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT—PM 71

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Iran emergency declared in 1979 is to continue in effect beyond November 14, 1999, to the *Federal Register* for publication. Similar notices have been sent annually to the Congress and published in the *Federal Register* since November 12, 1980. The most recent notice appeared in the *Federal Register* on November 12, 1998. This emergency is separate from that declared with respect to Iran on March 15, 1995, in Executive Order 12957.

The crisis between the United States and Iran that began in 1979 has not been fully resolved. The international tribunal established to adjudicate claims of the United States and U.S. nationals against Iran and of the Iranian government and Iranian nationals against the United States continues to function, and normalization of commercial and diplomatic relations between the United States and Iran has not been achieved. On March 15, 1995, I declared a separate national emergency with respect to Iran pursuant to the International Emergency Economic Powers Act and imposed separate sanctions. By Executive Order 12959 of May 6, 1995, these sanctions were significantly augmented, and by Executive Order 13059 of August 19, 1997, the sanctions imposed in 1995 were furthered clarified. In these circumstances, I have determined that it is necessary to maintain in force the broad authorities that are in place by virtue of the November 14, 1979, declaration of emergency, including the authority to block certain property of the Government of Iran, and which are needed in the process of implementing the January 1981 agreements with Iran.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 5, 1999.*

PERIODIC REPORT ON THE NATIONAL EMERGENCY WITH RESPECT TO SUDAN—MESSAGE FROM THE PRESIDENT—PM 72

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

As required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c) and section 204(c) of the International Emergency Economic Powers Act (IEEPA), 50 U.S.C. 1703(c), I transmit herewith a 6-month periodic report on the national emergency with respect to Sudan that was declared in Executive Order 13067 of November 3, 1997.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *November 5, 1999.*

OMISSION FROM THE RECORD

The following measure did not appear in the RECORD on November 8, 1999. The permanent RECORD will be corrected to reflect the following:

SENATE CONCURRENT RESOLUTION 71—EXPRESSING THE SENSE OF CONGRESS THAT MIAMI, FLORIDA, AND NOT A COMPETING FOREIGN CITY, SHOULD SERVE AS THE PERMANENT LOCATION FOR THE SECRETARY OF THE FREE TRADE AREA OF THE AMERICAS (FTAA) BEGINNING IN 2005

Mr. GRAHAM (for himself and Mr. MACK) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 71

Whereas deliberations on establishing a ''Free Trade Area of the Americas'' (FTAA) will help facilitate greater cooperation and understanding on trade barrier throughout the Americas;

Whereas the trade minister of 34 countries of the Western Hemisphere agreed in 1998 to create a permanent Secretariat in order to support negotiation on establishing the FTAA;

Whereas the FTAA Secretariat will employ persons to provide logistical, administrative, archival, translation, publication, and distribution support for the negotiations;

Whereas the FTAA Secretariat will be funded by a combination of local resources and institutional resources from a tripartite committee consisting of the Inter-American Development Bank (IDB), the Organization of American States (OAS), and the United Nations Economic Commission on Latin America and the Caribbean (ECLAC);

Whereas the temporary site of the FTAA Secretariat will be located in Miami, Florida, from 1999 until February 28, 2001, at which point the Secretariat will rotate to Panama City, Panama, until February 28, 2003, and then rotate to Mexico City, Mexico, until February 28, 2005;

Whereas by 2005 the FTAA Secretariat will have international institution status providing jobs and tremendous economic benefits to its host city;

Whereas a permanent site for the FTAA Secretariat after 2005 will likely be selected from among the 3 temporary host cities;

Whereas the city of Miami, Miami-Dade County, and the State of Florida have long served as the gateway for trade with the Caribbean and Latin America;

Whereas trade between the city of Miami, Florida, and the countries of Latin America and the Caribbean totaled $36,793,000,000 in 1998;

Whereas the Miami-Dade area and the State of Florida possess the necessary infrastructure, local resources, and culture necessary for the FTAA Secretariat's permanent site;

Whereas the United States possesses the world's largest economy and is the leading proponent of trade liberalization throughout the world; and

Whereas the city of Miami, Florida, the State of Florida, and the United States are uniquely situated among other competing locations to host the ''Brussels of the Western Hemisphere'': Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should direct the United States representative to the ''Free Trade Area of the Americas'' (FTAA) negotiations to use all available means in order to secure Miami, Florida, as the permanent site of the FTAA Secretariat after February 28, 2005.

ADDITIONAL STATEMENTS

THE LATE JAMES E. WILLIAMS, WINNER OF THE MEDAL OF HONOR

Mr. THURMOND. Mr. President, ''Hero'' is a word that is inappropriately used with some frequency in this day and age. This is certainly unfortunate, for a true ''hero'' is not the person who caught the game winning pass, but is an individual who has distinguished themself through courage. No matter how diluted this term have become through informal and casual use, it remains simply the best way to describe James E. Williams.

There was a time not long ago when all Americans understood the importance of military service and the notion of sacrificing of one's self for the better of the nation. James Williams was one such man, an individual who was so anxious to render military service, he lied about his age in order to join the United States Navy in 1946. Over the course of his career, Mr. Williams would repeatedly demonstrate his fierce determination and bravery.

Our involvement in the conflict in Vietnam was still relatively small in 1966, but such was not the case for those who were working to topple the democratic government of the Republic of Vietnam. Communist forces were operating extensively throughout South Vietnam, terrorizing peasants, and fighting a low intenstity conflict against our forces and our allies. That the infiltration of the enemy into the Republic of Vietnam was largescale was proven on that day late in October of 1966 when Mr. Williams and eight other sailors operating on two different plastic river boats engaged in a three-hour firefight with enemy personnel. As a result of that action, more than 1,000 communist military personnel were killed in action, and almost seventy North Vietnamese boats were sunk or destroyed. The courage demonstrated by Mr. Williams in the face of overwhelming odds, and the effective attack he mounted, led to his being awarded the Medal of Honor for his actions. Only the citation from the Medal of Honor awarded Mr. Williams adequately describes his heroism, and it reads:

For conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty as a member of River Section 531 during combat operations on the Mekong River in the Republic of Vietnam. On 31 October 1966, Petty Officer Williams was serving as Boat Captain and Patrol Officer aboard River Patrol Boat (PBR) 105 accompanied by another patrol boat when the patrol was suddenly taken under fire by two enemy sampans. Petty Officer Williams immediately ordered the fire returned, killing the crew of one enemy boat and causing the other sampan to take refuge in a nearby river inlet. Pursuing the fleeing sampan, the U.S. patrol encountered a heavy volume of small arms fire from enemy forces, at close range, occupying well-concealed positions along the river bank. Maneuvering through this fire, the patrol confronted a numerically superior enemy force aboard two enemy junks and eight sampans augmented by heavy automatic weapons fire from ashore. In the savage battle that ensued, Petty Officer Williams, with utter disregard for his own safety, exposed himself to the withering hail of enemy fire to direct counterfire and inspire the actions of his patrol. Recognizing the overwhelming strength of the enemy force, Petty Officer Williams deployed his patrol to await the arrival of armed helicopters. In the course of this movement he discovered an even larger concentration of enemy boats. Not waiting for the arrival of the armed helicopters, he displayed great initiative and boldly led the patrol through the intense enemy fire and damaged or destroyed fifty enemy sampans and seven junks. This phase of the action completed, and with the arrival of the armed helicopters, Petty Officer Williams directed the attack on the remaining enemy force. Now virtually dark, and although Petty Officer Williams was aware that his boats would become even better targets, he ordered the patrol boats' search lights turned on to better illuminate the area and moved the patrol perilously close to shore to press the attack. Despite a waning supply of ammunition the patrol successfully engaged the enemy ashore and completed the rout of the enemy force. Under the leadership of Petty Officer Williams, who demonstrated unusual professional skill and indomitable courage throughout the three hour battle, the patrol accounted for the destruction or loss of sixty-five enemy boats and inflicted numerous casualties on the enemy personnel. His extraordinary heroism and exemplary fighting spirit in the face of grave risks inspired the efforts of his men to defeat a larger enemy force, and are in keeping with the finest traditions of the United States Naval Service.

By the time Mr. Williams retired in 1967, and having fought in two wars, he was the most decorated enlisted man in the history of the United States Navy. Anyone who looked at the medals adorning his dress uniform would immediately recognize James Williams as a hero by noting his three Purple Hearts; three Bronze Stars; the Vietnamese Cross of Gallantry; the Navy and Marine Corps Medal; two Silver Stars; the Navy Cross; and of course, the Medal of Honor.

Despite having served his nation commendably and heroically, James Williams still wanted to contribute to society and hoped to follow in the footsteps of his father as a lawman. In 1969, Mr. Williams was nominated as the United States Marshal for the District of South Carolina by President Richard M. Nixon, and he again distinguished himself as a no-nonsense law and order man, vital for a day and age when some people reveled in challenging the system and in seeking confrontation with authorities. I doubt that too many people were foolish to cross swords with James E. Williams, and his work as a law enforcement official helped keep South Carolina safe and peaceful.

In the years following his retirement from Federal service, Mr. Williams continued to contribute to the nation, but as a private citizen. He was very active in the ''Medal of Honor Society'', a private organization dedicated to promoting knowledge and education about America's highest award. He was

also a member of the board of directors of the Patriot's Point Development Authority, which has created a military park in the Charleston area, and is also home to the above mentioned Medal of Honor Society.

Despite his heroism and his many high recognitions, James Williams was a down to earth individual. He refused offers to tell his story in print and on film, and he remained a plain talking, straight forward, good humored man to the day of his death. While Mr. Williams may no longer be among us, he has earned a legendary spot in Navy lore and the history of the United States, and he will always be remembered as the brave and selfless patriot he was.●

ON THE DEATH OF SACRAMENTO, CALIFORNIA MAYOR JOE SERNA

● Mrs. FEINSTEIN. Mr. President, I rise to speak today about the untimely death of Sacramento Mayor Joe Serna. This past Sunday, November 7, 1999, the City of Sacramento and the State of California lost an inspirational public servant and a great statesman. The death of Mayor Serna represents a loss for all of those who had the honor to know him, and for the entire City of Sacramento.

Mayor Serna had a distinguished public career, culminating in the election as Mayor of our State's Capital City in 1992. He served his country and his community as an educator, Peace Corps worker and public servant. He was a man of compassionate spirit, dedicated ideals and principled acts.

Mayor Serna's accomplishments, both personally and professionally, are many. Here are a few highlights:

1966—Earned his Bachelor's degree in Social Science and Government at California State University, Sacramento.

1966—Earned his Master's degree in Political Science at University of California, Davis.

1966—Served in the Peace Corps in Guatemala.

1969—Joined the faculty at California State University, Sacramento.

1975—Served as Education Advisor to then-Lieutenant Governor Mervyn Dymally.

1981—Elected to the Sacramento City Council, where he would serve 11 years.

1991—Received the Distinguished Faculty Award.

1992—Elected as Mayor of Sacramento.

1995—Received the Economic Development Leadership Award by the National Council for Urban Economic Development.

1996—Reelected as Mayor of Sacramento.

1998—Led the effort for the redevelopment of downtown Sacramento.

1998—Received an honorary doctorate degree from Golden Gate University.

I have known Mayor Serna for many years, and he was a visionary for Sacramento and the region.

Mayor Serna led California's Capital City toward a more positive and prosperous direction. He was extremely dedicated to the economic revitalization and redevelopment of Sacramento. Under his leadership, the Sacramento City Council helped to revitalize the downtown community, the region's heart and center. He appointed the first Council of Economic Advisors to help frame the City's economic agenda. In addition, Mayor Serna assembled a negotiating team that preserved the Sacramento Kings, the region's National Basketball Association Team, when the King's owners threatened to move the team out of town.

Mayor Serna was not only an honorable mayor, he was also a role model to the Latino community and an inspiration to all Californians. He was the first Latino elected as mayor of one of California's major cities, exemplifying the success that one can attain through education, hard work, and commitment—regardless of ethnicity. I believe Mayor Serna transcended ethnic politics without every losing sight of his ethnic background and his humble beginnings.

Mayor Serna grew up working in the fields of San Joaquin County. In the early 1960's he was an activist with the United Farm Workers, fighting for farm workers and for disadvantaged people. He went on to earn his bachelor's degree in Social Science and his master's degree in Political Science. He later entered the Peace Corps to serve the people in Guatemala as a community-development volunteer. Mayor Serna went on to became a professor at California State University in Sacramento and then served his community as Mayor of the City of Sacramento.

Along the way, he helped to inspire a host of talented Latino elected officials at all levels of government. Community leaders such San Joaquin County Supervisor Steve Gutierrez, State Senator Deborah Ortiz, and Lieutenant Governor Cruz Bustamante attribute their participation in public service in part to the example and inspiration of Joe Serna.

As Supervisor Steve Gutierrez said, ''Mayor Serna went from being a farm worker to organizer to an educator to mayor of Sacramento. He was truly an exemplary public servant and leader.''

Most recently, I had the pleasure to meet with Mayor Serna in Sacramento just hours after a heinous shooting had occurred at a Jewish community center in Los Angeles. We had an opportunity to discuss at length the issue of hate crimes and other regional issues. Mayor Serna was passionate about his community and he deeply cared for its people. Even until his final days, he worked for a better life for his fellow citizens.

Joe Serna leaves a powerful legacy in many lives and a lasting vision for his beloved city of Sacramento. He was a dynamic leader, and we Californians were fortunate for his service. Mayor Serna will be sorely missed. My thoughts and prayers are with his wife, Isabel, the entire Serna family, and the community of Sacramento.●

TRIBUTE TO BOB GREENLEE

● Mr. ALLARD. Mr. President, I would like to take this opportunity to recognize and congratulate Bob Greenlee on the occasion of his retirement from the Boulder City Council.

Bob and his wife Diane came to Colorado from Iowa in 1975 and used their savings to buy a small AM radio station in Boulder. Through their hard work and determination, they turned that small AM radio station into KBCO, one of the top radio stations in the State. In addition to their work in radio, they have also helped bring several successful businesses to their community, expanding nationwide and employing thousands of people across the country through their enterprises. As part of their overall business philosophy, Bob and Diane have helped many others achieve their entrepreneurial dreams by assisting them in business ventures and startup companies.

The Greenlee's have also been an integral part of the Boulder community through their philanthropic work. Together, they founded the Boulder County chapter of the ''I Have a Dream Foundation'' which assists underprivileged youth achieve their goal of a college education. Bob and Diane have also endowed their own family foundation to carry on their tradition of philanthropy in Colorado. Their work has helped thousands of people across Colorado in their desire to achieve the ''American dream.''

As the cornerstone of his community involvement, Bob served on the Boulder City Council for 16 years as the voice of common sense and reason. In 1997, Bob was selected on a unanimous vote by his fellow council members to serve as Boulder's mayor. As part of the city council, Bob's lasting legacy will be his thoughtful, reasoned voice in how a city should be operated. He views on frugality in the city budget and a common sense approach to city regulation will serve as an enduring reminder of his years of service to the community.

While he is retiring from City Council, Bob's interest in government has not ended. He currently serves as the chairman of the Republican Leadership Program. The program is aimed at teaching the fundamentals of our democracy and is used as a forum to discuss current issues that impact our everyday lives. His leadership has created one of the strongest programs of its kind in the country, and will serve to educate Coloradans on the need to be involved in the issues which face our state and our country.

Bob Greenlee has shown us all that the American dream can still be attained. He and Diane started by knowing that they could make a difference, and through their hard work and diligence, they were able to build their

lives in order to serve others. People like Bob and Diane Greenlee were the cornerstone of our democracy and must be recognized for their contributions to our society.

Mr. President, it is an honor and a privilege to recognize Bob Greenlee on his outstanding career and community involvement. I would like to thank Bob and Diane for their service, and wish them both much success in the future.●

WORLD CHAMPIONS

● Mr. BIDEN. Mr. President, on August 26, 1999, 13 young women, ages 15 and 16, put the First State on the map again by capturing the Senior League Softball World Series in Kalamazoo, Michigan.

This was a tremendous accomplishment for Delaware and for the country. The Stanton-Newport team completed an undefeated run through the double elimination tournament by winning a come-from-behind victory over a persistent and well seasoned team from the Philippines.

As one reporter put it, eight teams participated in the tournament, but ''only one will have its flag fly over the field for the next year.'' Proudly that will be the flag of the United States of America thanks to the team from the great State of Delaware.

The Stanton-Newport team is an outstanding example of the power of youth sports in America. As I have said many times in the past, young people need a hobby they love, at least one adult who supports them and a good many friends with similar interests. Organized sports provides this much and more.

In competitive sports young people learn responsibility, discipline, and the importance of cooperation and teamwork on and off the field. Later, these same young individuals will be able to apply their hard-earned lessons to everyday life.

The young women of Stanton-Newport epitomize the exceptional athletes and citizens from across the nation who are inspired on a daily basis by their committed parents and coaches.

I am proud to call this team a homegrown product and continue to salute their efforts on behalf of the First State and the rest of our nation. They are indeed World Champions.●

DR. EDWIN STRONG-LEGS RICHARDSON

● Mr. SMITH of New Hampshire. Mr. President, I would like to take this opportunity to recognize the outstanding work and accomplishments of Dr. Edwin Strong-Legs Richardson, Penobscot Indian Psychologist and President of Kiyan Indian Consultant Group. He is also known as Song-gan-la Gan-Naw, which is Penobscot for Strong-Legs and Kiyan Nakicinjin, which is Sioux for Flying Defender.

Dr. Richardson's admirable work ethic began at the age of thirteen when he started supporting his family as a logger. He has long been a nationally and internationally renowned applied behavioral scientist, consultant, trainer, retired Army Officer, and Spiritual Leader. For over fifty years, Dr. Richardson has been an educator-trainer, including professional ski instructor, mountaineer, and military instructor. He was voted one of the top instructors at four different universities/colleges and number one at two institutions.

As a combat Infantryman, Dr. Richardson fought the Germans, Japanese, and Vietnamese and served as the Commanding Officer of a Psychiatric Detachment in the Koran War. During his service, he was awarded for bravery under fire by his enlisted men and also received a commendation from General Westmoreland for an emergency landing of an airplane.

Dr. Richardson earned a B.S. in Pre-Med from the University of New Hampshire and his Masters of Education in Physical and Mental Rehabilitation from Springfield College. He then went on to The Ohio State University to receive his Doctorate in Health Education and Counseling.

I commend Dr. Richardson in raising public awareness of cultural diversity through his teaching, television programs, and books he has authored. He is an outstanding model for not only the Native American communities, but for all communities. Please join me in recognizing Dr. Edwin Strong-Legs Richardson.●

TRIBUTE HONORING CHRISTINE RUSSELL

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Christine Russell, who last week left my staff after seven years as my legislative assistant and policy advisor on environmental, transportation and energy issues. She married Alex Wells on October 30th in South Carolina. She and her husband will be living in Harrisburg, PA.

As my primary staff member responsible for the Environment and Public Works Committee, which I now chair, she was one of my chief staff liaisons with New Hampshire municipalities in need of Federal assistance, and with the Federal and State agencies responsible for these important issues. Chris was always there for me, and for the people of New Hampshire. She will be terribly missed.

Christine came to my office from the National Association of Manufacturers a few years after I came to the Senate. She brought with her the skills to balance private sector and public sector concerns regarding environmental, energy and transportation issues. Skills which I found invaluable during her years in my office.

In addition to her outstanding policy skills, Chris provided a warm smile and enjoyable attitude to my Senate office. She was professional, intelligent, and articulate—but it was her enthusiasm and energy that was most infectious. Chris was dedicated to her job, the U.S. Senate, and the people of New Hampshire. Alex is a very fortunate man, indeed!

Chris, on behalf of the people of New Hampshire and my entire staff, best wishes in all of your future endeavors. You deserve the best that life has to offer.●

EVERGREEN CARPET RECYCLING PLANT

● Mr. CLELAND. Mr. President, I rise today to express my support of private sector innovation to solve a public problem. My state is the site of a brand new, state of the art facility that will recycle carpets, chemically breaking them down to their virgin chemical components. Allied Signal and DSM are jointly opening the first-ever carpet recycling plant in Augusta, GA, on November 15. It's a fitting day for the opening of a carpet recycling plant since it is America Recycles Day 1999.

Carpets comprise of a significant portion of the Nation's landfills. Yet there are few programs at the state or local level targeted to redirecting carpets out of community landfills. The AlliedSignal-DSM facility, aptly named ''Evergreen,'' will ensure that each year over 200 million pounds of carpet never see a landfill. Now it may be hard to imagine 200 million pounds of carpet, so let me help you visualize it. If you had a 12 foot wide roll of carpeting you could lay it from New York to San Francisco and back again, and that would equal about 200 million pounds. And the Evergreen facility will save that much landfill space each year.

The carpeting that will be recycled in Augusta will not simply be broken down mechanically and remade into new carpets. Instead it will be depolymerized—broken down chemically into the individual chemical polymers that comprise the nylon fiber in the carpets. The primary chemical is caprolactum, but they can't produce enough at their facilities to meet the demands of their customers.

So they had a choice to make—either find another source of caprolactum or build new chemical plants that could be used to make caprolactum. With dedicated research engineers, they made several technological breakthroughs that enabled them to obtain caprolactum from used carpeting in a more economical fashion than to produce it at a new chemical plant. They can actually recycle old carpets into caprolactum more economically than they could produce it from scratch.

Avoiding the production of caprolatum in itself yields tremendous environmental benefits. To produce from scratch the amount of caprolactum that the Evergreen facility will generate would take more than 700 million barrels of oil a year, and 4 trillion Btus more in energy usage. That is enough energy to heat 100,000

homes a year. So it is not just landfill space that is saved under the Evergreen project.

AlliedSignal and DSM plan to market nylon 6 products made with caprolactum from the Evergreen facility to carpet manufacturers, auto makers and others to produce the highest quality nylon products. You will soon see Infinity Forever Renewable Nylon on products in early 2000.

I applaud the private sector initiatives that led to the evergreen project and I am particularly pleased that they have chosen the great state of Georgia in which to operate.●

TRIBUTE TO JAMES DUNCAN

● Mr. BURNS Mr. President, I rise today in recognition of James Duncan of Billings, Montana, a shining example of altruism and leadership. He is being awarded the 1999 Outstanding Fund Raising Executive Award by the National Society of Fund Raising Executives.

As president of the Deaconess Billings Clinic Foundation, James has helped increase the Foundation's assets and endowments by over 46 million within four years. However, Jim's efforts extend far beyond the reaches of his organization. He has worked with ZooMontana, was instrumental in the donation of $50,000 to Easter Seal, and donates his fund raising expertise free to rural communities across Montana.

Montana is lucky to have people like James Duncan. His dedication to this community serves as an example for all of us.●

TRIBUTE TO GORDON J. LINTON

● Mr. SARBANES. I rise today to pay tribute to a dedicated and effective leader of our Nation's transit program, Gordon J. Linton. Gordon recently resigned his post as the thirteenth head of the FTA to move on to other opportunities, and I would like to express my appreciation for the outstanding work that he has done.

During his six-year tenure as head of the Federal Transit Administration (FTA), Gordon Linton has proved to be one of the best and most accomplished Administrators. He spearheaded the FTA's Livable Communities Initiative which has demonstrated that transit can make a substantial contribution toward improving the quality of life in communities all across the Nation by improving the links between transportation and housing, schools, places of worship, employment and recreation. He worked tirelessly to expand citizen participation in the decision-making process to help make transit facilities and services more customer friendly and community-oriented. He played a key role in shaping the transit portion of the landmark Transportation Equity Act for the 21st Century—or TEA–21—which is providing record levels of funding for public transportation and established the innovative Access to Jobs program which is designed to ensure that people in transition from welfare to work have adequate transportation services.

I first came to know Gordon six years ago in July, when I chaired his nomination hearing in the Banking, Housing, and Urban Affairs Committee. It was clear that day, and evident throughout the past six years, that Gordon Linton was a passionate advocate for transit. He not only designed and directed over $37 billion in federal mass transit investments throughout the country—but never forgot that leadership begins by example and used public transportation himself to get to work and in traveling in communities around America. Mr. Linton came to Maryland on numerous occasions to support mass transit projects and improvements—projects such as the Baltimore Light Rail system; regional transit, such as the MARC commuter rail system; small town and rural systems to connect citizens in our rural areas to jobs, health care, education. He has done this in Maryland and he has done this in every state across the Nation.

Mr. Linton has exemplified a steadfast commitment to public service and public transportation. He is the longest-serving head of the Federal transit program since it was enacted in 1961. Before coming to Washington, Mr. Linton served as a member of the Pennsylvania House of Representatives in Pennsylvania where he was instrumental in passage of the Commonwealth's first dedicated source of funding for transit and Pennsylvania's seat belt legislation. I am pleased to say that through his work as a Pennsylvania legislator and through his sincere, skillful shepherding of the Federal transit assistance program, Mr. Linton has proven his commitment to improve mobility, invest in our future and make America more livable for all Americans.

Mr. President, I know that every one of us whose constituents have benefitted from Gordon J. Linton's leadership of our Federal Transit programs wish him well.●

TRIBUTE TO GARY W. PURYEAR

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor Gary W. Puryear of the 94th Regional Support Command, for his leadership and vision in creating one of the most comprehensive development and land exchange projects in support of the soldiers, sailors, and marines in the United States Armed Services.

Mr. Puryear established himself as a leader while developing a state-of-the-art home and training center for twenty-one units of the United States Army, Navy, and Marine Corps Reserve in Manchester. He spearheaded this innovative program, assisting the Department of the Army in saving over $2.5 million dollars in repair and maintenance costs. His efforts also saved the Navy over $350,000 per year in lease costs, and fostered the expansion goals of both the Manchester Airport and Saint Anselm College.

Mr. Puryear also actively worked to publicize the Army Reserve's Modular Design System (MDS), highlighting its cost effectiveness and speed, and subsequently reaffirming the importance of pursuing a process of multiple and mutual success.

Mr. Puryear's efforts largely contributed to creating this state-of-the-art training center. As a result, 1,091 soldiers now occupy the center as a residence and a training site. The center itself indirectly helped expand the Manchester Airport as a vital shipping and transportation link by freeing up prime development space for airport related activities.

Gary Puryear has proven himself an innovative leader who is committed to the United States Armed Forces, and the community as a whole. He has assisted in saving the taxpayers thousands of dollars annually, enhancing the readiness of our armed forces, and solidifying a long-term military presence in Manchester and Londonderry. It is an honor to represent him in the United States Senate.●

TRIBUTE TO MARK ALDRICH, TRUSTED ADVISOR AND FRIEND

● Mr. SMITH of New Hampshire. Mr. President, I rise today to pay tribute to Mark Aldrich on the occasion of his retirement, on November 30th, from the United States Senate after 20 years of service.

For the past nine years, Mark has served as my State Director, confidant and community leader. Mark also served my predecessor, Senator Gordon Humphrey, as a loyal and dedicated staff member for more than a decade.

Over the years, I have had the pleasure to travel thousands of miles with Mark, through the Great North Woods, the covered bridges of Orford and Cornish, and the scenic mountains of the Monadnock Region. Mark and I drove in his old Cadillac * * * sharing stories and helping the people of New Hampshire.

Together we worked to secure federal funding for the expansion of the Manchester Airport, the newly completed Reserve Center in Londonderry, the Portsmouth Naval Shipyard, the development of the Pease Air Force Base and so many other important projects that have helped to fuel the New Hampshire economy. Mark should take great pride in his many fine accomplishments, especially in promoting economic vitality in the North Country and throughout the state. I know that the many businesses and communities he helped will miss him, as I will.

Mark is the kind of leader that we all aspire to become. He mixed humor with guidance, making each of his fellow staff members feel comfortable while sharing his advice and expertise. He energized the office allowing for greater productivity and a fierce sense of loyalty.

As Mark embarks on this new journey, I wish he and Connie every happiness life has to offer. I know he will enjoy his leisure time with Jonathan exploring the trails of the White Mountains and I am sure his coaching skills will continue to flourish as he cheers on Molly and her teammates at Concord High. And the engagements with his band ''Souled Out'' will continue to experience success. I hope Mark will enjoy this poem by New Hampshire poet, Robert Frost.

The woods are lovely, dark and deep.
But I have promises to keep,
And miles to go before I sleep.
And miles to go before I sleep.

Mark, it has truly been an honor to call you my friend. It is a pleasure to represent you in the United States Senate.

I wish you God speed and good luck in your future endeavors.●

COMMEMORATING THE FIFTH ANNIVERSARY OF THE SHOOTING OF SAN FRANCISCO POLICE OFFICER JAMES GUELFF

● Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to San Francisco Police Officer James Guelff on the fifth anniversary of his death in the line of duty.

This coming Saturday, the City of San Francisco will honor Officer Guelff by having his name enshrined at the corner of Pine and Franklin in San Francisco where he was slain on November 13, 1994.

Responding to a distress call, Officer Guelff, stationed at Northern Police Station, reached the crime scene and was immediately fired upon by a suspect shielded by body armor and armed with an AK 223, an Uzi, two semi-automatic pistols, and thousands of rounds of ammunition. In an attempt to defend himself, Officer Guelff returned fire but his police issue revolver could not penetrate the gunman's kevlar vest and bulletproof helmet. Officer Guelff was killed under the barrage of the assailant's bullets as he attempted to reload his revolver.

Officer James Guelff bravely faced an assailant with defensive armor and firepower no police officer should ever confront. In response to his death, his relatives and fellow officers embarked on a national campaign to restrict felons' access to body armor.

This incident helped raise awareness of the unacceptable risks officers face on the street when they encounter gunmen with equal or better defensive protection. The bottom line is that criminals who use body armor have a deadly offensive weapon.

It is a tribute to the memory of Office James Guelff and a tribute to the persistence and dedication of his family and fellow officers that California passed legislation restricting the use of body armor by felons.

Earlier this year, I introduced the James Guelff Body Armor Act of 1999 to enact Federal regulations on body armor. First, the measure increases the penalties criminals receive if they commit a crime wearing body armor. Specifically, a violation will lead to an increase of two levels under the Federal sentencing guidelines. Second, it makes it unlawful for violent felons to purchase, use, or possess body armor.

This legislation is included in S. 254, the Juvenile Justice Crime bill, which is in its final negotiations in a joint House-Senate conference committee.

It is my hope that the Conference Committee will finish its job quickly so that we can provide a lasting tribute to Officer James Guelff. This legislation will better protect our police officers by making sure they are adequately supplied with body armor, and that hardened criminals are deterred from using body armor.

Mr. President, I urge my colleagues to join me on this special day in honoring Officer James Guelff and celebrating the life of a true American hero.●

HONORING ALASKA'S VETERANS OF UNDERAGE MILITARY SERVICE

● Mr. MURKOWSKI. Mr. President, earlier this year the Alaska Legislature passed a resolution honoring Alaska's Veterans of Underage Military Service. This is an important veterans organization in Alaska, and I would like to let the Senate know a little bit about it by submitting the text of the state resolution in the RECORD.

I ask that the resolution be printed in the RECORD.

The resolution follows:

RESOLUTION OF THE ALASKA LEGISLATURE HONORING ALASKA'S VETERANS OF UNDERAGE MILITARY SERVICE

The Twenty-first Alaska State Legislature is proud to commend Veterans of Underage Military Service and its members for their attempts to locate and assist all underage veterans of America's armed forces.

Throughout history, nations have called upon their youth to fight their wars, and it is inevitable that some men and women under the legal age, usually driven by strong patriotism, have enlisted in the armed forces. In some instances, these youth were discovered and separated from the service having already seen action. After being discharged from one branch of service for being underage, many promptly enlisted in another branch of the armed services.

The Twenty-first Alaska State Legislature recognizes these men and women who understood the importance of fighting for freedom and honors their valiant efforts as defenders of the United States of America during times of war and peril. The Veterans of Underage Military Service Veterans was formed in 1990 to help such individuals, who were frequently discharged from the service and stripped of their awards and their military benefits.

The goal of the Veterans of Underage Military Service organization is to contact all veterans who served in any branch of the United States Armed Forces when they were under legal age and to advise and assist them in obtaining a proper discharge and veterans' benefits. A secondary goal is to establish a historical record of underage veterans by publishing their names, deeds, and stories. The organization currently consists of more than 1,000 members nationwide who served in the United States Armed Forces before they were of legal age.

The Twenty-first Alaska State Legislature wishes to recognize Alaska's own members of the Veterans of Underage Military Service: Judd Clemens, Michael Mitchell, Gordon Severson, Gene Wheeler, Larry Connolly, Miles Pierce, Elsie Sexton, and Thor Weatherby.

We, the members of the Twenty-first Alaska State Legislature honor the Veterans of Underage Military Service. We commend them for their attempts to locate and assist all underage veterans of the United States Armed Forces and support their efforts to make ''whole'' these national heroes.●

TRIBUTE TO ANDY FRENCH, EDDIE WILSON, AND LIBBY O'FLAHERTY FOR THEIR HEROIC EFFORTS

● Mr. SMITH of New Hampshire. Mr. President, I rise today to honor three individuals who define heroic action and the selflessness of many of the citizens of the State of New Hampshire. While only teenagers, these three individuals acted with maturity and grace in saving the life of Carol Black of Newton, Massachusetts.

Andy French, Eddie Wilson, and Libby O'Flaherty, all of Gilford, New Hampshire, were enjoying a quiet afternoon on the lake when they spotted Carol Black. Upon seeing the body of the unconscious woman in the water of Lake Winnepesaukee, the three youths selflessly came to her aid. They did not hesitate before saving her, a testament to their individual honor.

Mr. President, in a society where we too often hear stories of youth violence, it is refreshing to hear of heroic deeds such as this. Too often, the actions of a few that have wandered from the fold overshadow those who have acted with continual kindness.

It is one of the deepest pleasures for me to be able to rise today to honor these three individuals from my home area. Their kindness and dedication sets a precedent for other youth to follow. It is an honor to represent them in the United States Senate.●

ADDRESS BY KING ABDULLAH OF JORDAN AT THE KENNEDY LIBRARY

● Mr. KENNEDY. Mr. President, on October 14, the John F. Kennedy Presidential Library in Boston hosted a dinner in honor of King Abdullah II of Jordan.

In his remarks, King Abdullah spoke eloquently of the strong ties between the United States and Jordan, his vision for strengthening peace in the Middle East, and his hope of creating new opportunities for future generations in Jordan.

Like his father, King Hussein, King Abdullah cares deeply about the Jordanian people and stability in the region, and his comments are very inspiring. I believe that all of us who care about the future of the Middle East

will be interested in his remarks, and I ask that they be printed in the RECORD.

The remarks follow:

SPEECH BY HIS MAJESTY KING ABDULLAH II AT THE KENNEDY LIBRARY IN BOSTON, THURSDAY, OCTOBER 14, 1999

Senator Kennedy, Mrs. Kennedy, Mr. Manning, Ladies and gentlemen, allow me first to express my sincere gratitude for this beautiful evening which Rania and I shall cherish for the rest of our lives.

Senator, I would like to add my voice to all those who have paid tribute, over the years, to the Kennedy family, for the contribution that they have made to the improvement of human life and for the painful sacrifices that have made us all realize the value of true citizenship.

I say that Senator, because I also happen to belong to a family that has devoted itself since the turn of this century to the improvement of the life of the Arab people. Over the years, many sacrifices have been made to ensure that the freedom, liberty, and integrity of the Arab mind is sacrosanct, that the rights of the Arabs are not forgotten or betrayed and that their future is protected.

As I conclude my second working visit to the United States, I am very proud of the special relations that bind Jordan with your country. The foundations of these ties, so carefully laid by my late father have seen us making peace with our Israeli neighbors, and subsequently guarding its sustainability and continuity. Through our partnership with America, we have built a unique model in our region. It is a model of peace that is cemented by the respect of the principles of democracy, freedom of expression, political pluralism, free economic enterprise, and human dignity. It is being continually reinforced through our positive interaction with our neighbors.

Most importantly, it is the necessary requirement for successfully facing the challenges ahead which are numerous and quite complex. In my mind, the most daunting task that I have set myself to accomplish is to guarantee that our younger generation get an equal opportunity like others elsewhere in the world: An opportunity to be active participants in the shaping of their own destiny, one that will hopefully focus on technological advances in science, on being a part of the information technology revolution, and on being able to enjoy the best of education, medical care, and environmental standards.

These are big challenges that necessitate, first and foremost, that we rid ourselves of the dark past of war, conflict, and strife in our region, prior to getting ready to embark on a future course of promise, rewards, and accomplishments.

These challenges require more than ever that the partnership with the United States be solid, strong, and sustainable. The role that the United States has played in the making of peace in our region must be complemented with continued efforts designed to rehabilitate our region. If it is to effectively participate in the community of nations, not through conflict, but rather through a concrete realization of a new positive role.

All of you present here tonight can contribute to the making of a new region. We in Jordan will continue to provide the model, but we need your support and contribution.

I do not want to keep you any longer; suffice it to say that I am very grateful to all of you for your interest, your support, and your determination to help us attain a dream that befits the dawn of a new millennium.

Thank you again, and we hope to see you in the near future in our part of the world.●

TRIBUTE TO MAJOR CLINT CROSIER

Mr. SMITH of New Hampshire. Mr. President, I rise today to recognize Major Clinton E. Crosier, an Air Force Fellow on my staff, and commend his superior performance throughout this past year as a key member of my national security team.

Major Crosier has been on active duty since 1988. During his 11-year career he has served as an Executive Office and Operations Management Officer, during which time he deployed to Saudi Arabia during Operations Desert Shield and Desert Storm. He has served as a Satellite Operations Flight Commander, overseeing the operations of part of the Air Force's multibillion dollar constellation of military communications satellites; and also as a Missile Operations Crew Commander and Flight Commander, supervising the training and certification of over 200 of the nuclear launch officers serving as the backbone of America's nuclear deterrent.

During his career, his outstanding performance and professionalism has been recognized by his selection as the 90th Missile Wing's Staff Officer of the Year; 28th Air Division's Company Grade Officer of the Year and Lance P. Sijan Leadership Award Winner; three-time selection as unit Company Grade Officer of the Year; Unit Evaluator of the Year; and Unit Flight Commander of the Year. Major Crosier is also a Distinguished Graduate of the Air Force's Operations Management Officer school and Squadron Officer School, and graduated first in his class during satellite operations training and missile operations training.

Upon arrival at the Pentagon just over a year ago, Major Crosier was tasked with building the Air Force's first ever Air Command and Staff College program for Congressional staff. This program, known as ACSC, is a 44-week graduate level program designed to provide mid-career officers with an in-depth understanding of the principles and application of air and space power. This was the first time in history this program had been offered to Congressional staff. In this capacity, Major Crosier was directly responsible for the graduation of 18 staff members from both the House and Senate in a ceremony last month over which the Secretary of the Air Force presided. During this ceremony, Secretary Peters heralded the Capitol Hill ACSC seminar Major Crosier built as a ''very important tool to cement the important partnership between the Air Force and the Congress . . . that will serve indefinitely as a bridge between our two great institutions.'' Additionally, Secretary Peters praised Major Crosier personally by describing his effort as an ''astronomical benefit'' to the Air Force.

Most recently, Major Crosier was one of only 10 officers in the entire Air Force selected for the prestigious Legislative Fellowship program, through which he came to work as a member of my personal staff. The Air Force's Legislative Fellowship program is designed to identify the Air Force's highest caliber performers through an extremely competitive selection process. These individuals are then provided an in-depth education in the legislative processes of Congress through a one-year assignment in a Member's office, to prepare them for future senior leadership positions in the Air Force. Throughout the past year, he has been an invaluable resource to me, and a credit to the United States Air Force.

Due to his vast experience in space and missile operations, Clint was able to provide me with expert assistance in my capacity as Chairman of the Strategic Force Subcommittee on Armed Services, providing technical expertise on a myriad of advanced space operations and missile defense programs. He quickly became an expert on dozens of programs critical to national security. Major Crosier also was responsible for performing topical research and preparing me for dozens of Armed Services Committee hearings, and provided a vital role on a number of wide ranging issues from the Department of Defense Authorization and Appropriations Bills to the Comprehensive Test Ban Treaty and the Vieques Weapons Range.

Major Crosier has been an outstanding addition to my staff, and has served with the highest degree of integrity and distinction. His performance has earned my highest praise, and he has distinguished himself as one of the top military officers I have had the great privilege to know during 16 years in Congress. Major Crosier has demonstrated himself to be one of the Air Force's brightest future senior leaders. As Major Crosier departs the Senate to serve on the personal staff of the Secretary of the Air Force, I extend my sincerest appreciation for his valuable and professional service. I will not only miss Clint's knowledge and efficiency, I will also miss his enthusiasm. Clint is an honorable and dedicated individual. I wish he, his wife Shelle, and their children, all the best in future endeavors.

SENATE COMMITTEE CHANGES

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 228, submitted earlier by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 228) making changes to Senate committees for the 106th Congress.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GORTON. Mr. President, I ask unanimous consent that the resolution be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 228) was agreed to, as follows:

S. RES. 228

Resolved, That notwithstanding the provisions of S. Res. 400 of the 95th Congress, or the provisions of rule XXV, the following changes shall be effective on those Senate committees listed below for the 106th Congress, or until their successors are appointed:

Committee on Intelligence: Add Mr. Mack.

SENATE COMMITTEE APPOINTMENTS

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of S. Res. 229 submitted earlier by Senator LOTT.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 229) making certain majority appointments to certain Senate committees for the 106th Congress.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GORTON. Mr. President, I ask unanimous consent that the resolution be agreed to and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 229) was agreed to, as follows:

S. RES. 229

Resolved, That notwithstanding the provisions of Rule XXV, the following shall constitute the majority membership on those Senate committees listed below for the 106th Congress, or until their successors are appointed.

Committee on Finance: Mr. Roth (Chairman), Mr. Grassley, Mr. Hatch, Mr. Murkowski, Mr. Nickles, Mr. Gramm, Mr. Lott, Mr. Jeffords, Mr. Mack, Mr. Thompson, and Mr. Coverdell.

Committee on Foreign Relations: Mr. Helms (Chairman), Mr. Lugar, Mr. Hagel, Mr. Smith of Oregon, Mr. Grams, Mr. Brownback, Mr. Thomas, Mr. Ashcroft, Mr. Frist, and Mr. Chafee.

Committee on Environment and Public Works: Mr. Smith of New Hampshire (Chairman), Mr. Warner, Mr. Inhofe, Mr. Thomas, Mr. Bond, Mr. Voinovich, Mr. Crapo, Mr. Bennett, Mrs. Hutchison, and Mr. Chafee.

Committee on Ethics: Mr. Roberts (Chairman), Mr. Smith of New Hampshire, and Mr. Voinovich.

WAIVING ENROLLMENT REQUIREMENTS FOR FIRST SESSION OF 106TH CONGRESS

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of H.J. Res. 76, which is at the desk.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 76) waiving certain enrollment requirements for the remainder of the first session of the One Hundred Sixth Congress with respect to any bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2000.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. GORTON. Mr. President, I ask unanimous consent that the joint resolution be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 76) was read the third time and passed.

APPOINTMENTS

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the following Senators as members of the Senate Delegation to the North Atlantic Assembly (NATO Parliamentary Assembly) during the First Session of the 106th Congress, to be held in Amsterdam, The Netherlands, November 11–15, 1999:

The Senator from Iowa (Mr. GRASSLEY),

The Senator from Utah (Mr. BENNETT), and

The Senator from Hawaii (Mr. AKAKA).

ORDERS FOR WEDNESDAY, NOVEMBER 10, 1999

Mr. GORTON. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:30 a.m. on Wednesday, November 10. I further ask unanimous consent that on Wednesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume on S. 625, the bankruptcy reform bill, under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GORTON. For the information of all Senators, the Senate will resume consideration of the bankruptcy bill at 9:30 a.m. on Wednesday. Under the previous order, there will be up to 4 hours of debate on the Hatch amendment No. 2771 regarding drugs, with a vote to follow the use or yielding back of that time. The votes on the nomination of Carol Moseley-Braun and Linda Morgan will be stacked to follow the vote on the drug amendment. Thus, Senators can expect three back-to-back votes between 12 noon and 1 p.m. tomorrow. There are a number of amendments pending on the bankruptcy bill, and it is hoped that they can be disposed of in a timely fashion, along with any other amendments Senators intend to offer to this legislation. The Senate may also be ready to take action on the remaining appropriations bills during tomorrow's session of the Senate. Senators should adjust their schedules for the possibility of votes throughout the day and into the evening. The leadership appreciates the patience and cooperation of his colleagues as we attempt to complete the appropriations process prior to Veterans Day.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GORTON. If there is no further business to come before the Senate, I now ask that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:38 p.m., adjourned until Wednesday, November 10, 1999, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 9, 1999:

FEDERAL MARITIME COMMISSION

ANTHONY M. MERCK, OF SOUTH CAROLINA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2001, VICE MING HSU, TERM EXPIRED.

DEPARTMENT OF ENERGY

JAMES JOHN HOECKER, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL ENERGY REGULATORY COMMISSION FOR THE TERM EXPIRING JUNE 30, 2005. (REAPPOINTMENT)

PEACE CORPS

MARK L. SCHNEIDER, OF CALIFORNIA, TO BE DIRECTOR OF THE PEACE CORPS, VICE MARK D. GEARAN, RESIGNED.

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

MEL CARNAHAN, OF MISSOURI, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S. TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 2005. (REAPPOINTMENT)

DEPARTMENT OF JUSTICE

RANDOLPH D. MOSS, OF MARYLAND, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE WALTER DELLINGER.

JOHN R. LACEY, OF CONNECTICUT, TO BE CHAIRMAN OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2000, VICE DELISSA A. RIDGWAY, TERM EXPIRED.

LARAMIE FAITH MCNAMARA, OF VIRGINIA, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR A TERM EXPIRING SEPTEMBER 30, 2001, VICE JOHN R. LACEY, TERM EXPIRED.

WITHDRAWALS

Executive messages transmitted by the President to the Senate on November 9, 1999, withdrawing from further Senate consideration the following nominations:

DEPARTMENT OF EDUCATION

MARSHALL S. SMITH, OF CALIFORNIA, TO BE DEPUTY SECRETARY OF EDUCATION, VICE MADELEINE KUNIN, WHICH WAS SENT TO THE SENATE ON MARCH 25, 1999.

DEPARTMENT OF JUSTICE

BETH NOLAN, OF NEW YORK, TO BE AN ASSISTANT ATTORENY GENERAL, VICE WALTER DELLINGER, WHICH WAS SENT TO THE SENATE ON MARCH 5, 1999.

EXTENSIONS OF REMARKS

PRESCRIPTION DRUG FAIRNESS FOR SENIORS ACT—SUBMITTING RULE FOR DISCHARGE PETITION

HON. RONNIE SHOWS

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. SHOWS. Mr. Speaker, this is an important day. Soon I will have been a Representative for the people of Mississippi's 4th Congressional District for a year. Issues great and small have been debated. Our budget, F–22's, water and transportation projects, foreign operations expenditures are all some of the issues that have been grappled with.

Our nation continues to reap economic benefits that can not be matched. We are a people moving forward. But, can we truly move forward if we are leaving some behind?

Can we turn our backs on our elderly, the very people who stood face to face with a Great Depression and the trials and tribulations of war?

Lucille Bruce is from Clinton, MS. She lives on a fixed income and pays in excess of $200 each month for prescription medicine. Ms. Bruce says that without her daughter she would have no money to live. She wonders how many Senior Americans there are who don't have the type of family support she receives.

Well, Ms. Bruce, sadly there are millions. And it is past time for their American family to step forward with the care, support and respect they are owed.

H.R. 664, the Prescription Drug Fairness for Seniors Act was introduced earlier this year by my friend and colleague, TOM ALLEN of Maine. This legislation will substantially lower the costs of what senior citizens pay for prescription drugs.

Seniors pay much more for prescription drugs as the drug companies' ''favored customers'' such as the federal government and large HMOs. This legislation will allow pharmacies to purchase drugs for Medicare beneficiaries at the same rate as the government and large HMO's so our grandparents and parents will be ''favored customers'' as well. This is only right.

Our senior citizens should never be forced to choose between buying food or buying medicine. They should not have to decide between paying the electric bill or paying for the medicine that keeps them healthy.

Yet, in America today, many seniors are put into that very position. This is a shame.

And, it is also a shame this bill has not been brought forward for real consideration. It is a shame to ignore the cost of prescription drugs that our senior citizens are burdened with.

Today, I will offer a resolution to bring H.R. 664 to the floor for a vote. If no action is taken within 7 days I will file a discharge petition to take my resolution from the Rules Committee and bring H.R. 664 directly to the floor for a vote.

Seven days. Just imagine seven days in the life of our senior citizens who are struggling to pay bills and enjoy a decent standard of living here at the end of the American Century.

I choose to stand with our senior citizens. I choose to fight for the values and principles that I know we all hold close.

Let's move H.R. 664 forward today. For our seniors, for us all.

TRIBUTE TO HENRY BELL, AN OUTSTANDING AMERICAN

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. HALL of Texas. Mr. Speaker, I rise today in honor of a truly outstanding American, Henry M. Bell, Jr., of Tyler, Texas, whose death on August 24, 1999, leaves behind a remarkable legacy of accomplishment—and leaves us with memories of a truly great man who was devoted to his family and community, who spent his life in service to others, and who was beloved by all who knew him. Mr. Speaker, Henry Bell was an exemplary man and a good friend of mine, and it is an honor for me to pay tribute to him in the CONGRESSIONAL RECORD for all to read.

Henry Bell was one of Tyler's city fathers. As the Tyler Morning Telegraph stated, ''Mr. Bell exemplified the spirit of community service, lending his time and talents to his church and numerous civic and professional organizations.'' Tyler's flourishing medical community, institutions of higher education, and economic infrastructure owe much of their foundation and success to the vision and efforts of Henry Bell.

Mr. Bell's civic involvement reflects his devotion to his community. He was instrumental in the growth and development of the East Texas Medical Center, where at the time of his death he served as chairman of the board for the East Texas Medical Center Regional Healthcare System and the ETMC Foundation. He also was a member of Texas Healthcare Trustees. In addition, he was just as committed to the development of higher education opportunities in Tyler. He was an ardent proponent for the University of Texas at Tyler, where he served on its Development Board.

Mr. Bell's involvement also helped create thousands of jobs for East Texans at area factories that he helped bring to Tyler. He was a key player in the former Tyler Industrial Foundation, through which he helped bring to Tyler the General Electric air-conditioning factory, now operated by the Trane Company; the Bryant Heater Company, now Carrier Corporation; and the Kelly-Springfield tire factory. For his efforts, in 1971 he received the T.B. Butler Award, which recognizes the most outstanding citizen of the Tyler Area Chamber of Commerce.

In every facet of Tyler's civic and professional life, Henry Bell's impact can be felt. Beginning in 1948, he devoted his career to Citizens First National Bank of Tyler (now Regions Bank), where he served in several executive roles, including president and chairman of the board. He retired as senior chairman in 1993.

He served as president or board chairman for the Chamber of Commerce, Texas Rose Festival Association, United Way of Greater Tyler, American Red Cross, Smith County Heart Association, Better Business Bureau, Tyler Petroleum Club and Willow Brook Country Club. He served as a board member for the University of Texas Health Center, Salvation Army, Junior Achievement, Texas Chest Foundation and Texas College, which awarded him an honorary degree. He also served as past chairman and board member of the Teachers Retirement System of Texas.

He was a senior warden at Christ Episcopal Church and past board member of the Episcopal Diocese of Texas and the Bishop Quin Foundation. He was a member of the Henry Bell Lodge No. 1371, AF&AM, and member of the Sharon Temple and Scottish Rite Bodies.

The awards and accolades that Henry Bell received are numerous, but as his friends will testify, he accepted them with a spirit of humility that was his trademark. As one longtime friend noted, ''From his early adult years he approached every subject on the basis of what good could come out of it for Tyler.'' Another friend and civic leader called him ''the quintessential Southern gentleman'' and part of a generation that had a tremendous influence on the growth and development of the city.

A descendent of one of Tyler's founding families, he was born January 23, 1928, in Tyler to Henry M. Bell Sr. and Elizabeth Loftin Bell. He received a B.S. degree in industrial administration, having attended The Citadel in Charleston, S.C., and Yale University in New Haven, Conn.

Preceded in death by his loving wife of 47 years, Nell, who died in February, 1999, Mr. Bell is survived by two sons and a daughter-in-law, Henry M. Bell III and Allen and Cindy Bell; mother, Elizabeth; granddaughters, Lendy, Audrey and D'Ann Bell; great-grandson, Christian Bell; sister, Dorothy Finn; and several nieces and nephews.

Henry Bell was a great man, an outstanding citizen, and one whose influence will be felt for generations to come. He was more than that to me—he was a close and wonderful friend—one that cannot be replaced—but can be long remembered. So as we adjourn today, Mr. Speaker, I ask my colleagues to join me in paying our last respects to one of Tyler's great leaders and my good friend, Henry Bell, Jr., who will be missed by all those who knew him.

TRIBUTE TO ELSIE COATES

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. SHIMKUS. Mr. Speaker, I rise before you today to express my admiration for Ms.

Elsie Coates of Camp Point, Illinois. Her accomplishments should inspire us all to never stop living life to its fullest.

Celebrating her 85th birthday this last July, Elsie is proof that age is not necessarily a barrier in carrying out life long dreams. In the last ten years, Elsie obtained her drivers license and completed the requirements for the GED, the equivalent of a high school degree. Last year, she added to her list a tandem skydiving excursion at the 1998 World Free Fall Competition. Amidst all these exciting activities, Elsie still finds time to participate actively in the church and community.

Elsie is a true inspiration. The significance of her achievements is perhaps said best in her own words. ''Age is just a number . . . If you set down and feel sorry for yourself, you're going to get old awfully quick.''

IN HONOR OF MICHAEL MICHALISIN, CPA

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay special tribute to Michael Michalisin, CPA, on the occasion of his sixtieth birthday. In 1963, Mr. Michalisin began his career in accounting and auditing with a focus on corporate mergers and acquisitions.

In 1975, Mr. Michalisin was admitted to Partnership with the firm, Hurdman and Cranstoun. Later, as an Audit Partner in the New York office of KPMG Peat Marwick, Mr. Michalisin specialized in work with trading companies, chemical and aluminum manufacturers, consulting engineers, book publishers, and venture capital investors.

Mr. Michalisin has participated extensively in accounting processes during mergers and acquisitions. As a member of the client acquisition team, reporting to top management, he has supervised pre-acquisition reviews and the due diligence team.

Mr. Michalisin has vast experience coordinating world wide audits with client management in many countries. One of Mr. Michalisin's particular areas of expertise has been with Japanese firms. He has worked with Japanese companies for the past 20 years and has a strong knowledge of the Japanese management style, business approach, culture and thinking.

Since leaving the public accounting profession in late 1991, Mr. Michalisin has been an independent consultant to businesses and has established himself in the interim professional services business. He provides corporate clients with interim executives and consultants to solve their immediate and short-term problems.

Mr. Michalisin is a member of the American Institute of Certified Public Accounts and New York State Society of Certified Public Accountants. He is past President of the New York Chapter of the National Association of Accountants.

Married and the father of two sons, Mr. Michalisin and his wife reside in Scotch Plains, New Jersey. Mr. Michalisin has been active in his town's baseball association as coach and president. He is currently the Commissioner of the Scotch Plains Youth Baseball Association.

A TRIBUTE IN HONOR OF MICHIGAN SUGAR COMPANY ON THE OCCASION OF THEIR 100TH ANNIVERSARY

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. BARCIA. Mr. Speaker, I rise to pay tribute and to congratulate Michigan Sugar Company, which celebrates its centennial this year. Located in Caro, Michigan, the company represents a vital industry in the Fifth Congressional District, that I am proud to represent in Congress today. Although families are still bringing in their crops, it appears that Michigan Sugar might achieve a record-breaking sugar beet harvest this year. Mr. Speaker, I am sure you will agree with me that this is indeed a fitting tribute for Michigan Sugar's 100th year of operation.

Michigan Sugar Company received its first delivery of beets from Mr. William Brinkman on October 9, 1899. And in that same month the company began its processing operations that have contributed greatly to our local economy as well as to the livelihood of all our families in the area. Today, Michigan Sugar Company's Caro factory is recognized as the oldest operating sugar beet refinery in the United States.

This year, over 250 grower families from Tuscola, Huron, Sanilac, Saginaw and Bay Counties farmed nearly 30,000 acres of sugar beets to supply Michigan Sugar's Caro factory. This autumn and winter, the Caro factory will process approximately 550,000 tons of sugar beets and produce over 140,000,000 pounds of sugar.

In 1898, the citizens of Caro donated the land for the first factory, which was named Peninsular Sugar Refinery. That company merged with other area refineries in 1906 to form Michigan Sugar Company. And now, one hundred years later, Michigan Sugar continues to repay the donation of this land for its first factory site by acts of civic achievement and contribution. The company remains a strong leader in the community through such measures as donating over 75,000 pounds of sugar to non-profit organizations in the state and community, as well as through financial support of these organizations.

Mr. Speaker, I invite you and our colleagues to join me in extending our congratulations to the company's President and Chief Executive Officer, Mr. Mark Flegenheimer, the Factory Manager, Mr. Daniel Mashue, and to Michigan Sugar Company's many hard-working employees. Michigan Sugar Company is an integral part of our prosperous sugar beet industry in Michigan, and as such, is important to each and every family in the Fifth Congressional District. For one hundred years of being a mainstay in our economy, and for the many acts of civic contributions and achievements, I would like to say, thank you, and best wishes for the next one hundred years.

PRESIDENTIAL LIBRARY DONORS DISCLOSURE

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. DUNCAN. Mr. Speaker, today, I introduced legislation which would, in the future, require organizers of presidential libraries to disclose the identity of donors and the amounts they give.

The Washington Post recently reported that $125 million will have to be raised to construct President Clinton's library. It also reported that:

> The library fund-raising is striking both for the gargantuan size of the pledges being made and the refusal—at least so far—to disclose the donors.

However, we do not know who these donors are or what interests they may have on any pending policy decisions that are to be made. I think that our government needs to operate in the open—not behind closed doors.

In addition to the reports in the Washington Post, I would like to note that the Knoxville News-Sentinel discussed this issue in its lead editorial saying:

> Clinton is still a sitting president and is in a position to do favors for donors. His raising money for his library behind closed doors may be legal, but it smells all the same. He should make public the names of the donors and the amounts of their contributions or he should wait until he is out of office to put the arm on people.

It also stated that:

> The White House defense of this secrecy is lame in the extreme: Ronald Reagan did it. Perhaps so, but that doesn't make it right, and this administration, given its various fund-raising scandals, should be especially sensitive to the appearance of impropriety—or one would hope so.

I agree 100 percent, and I hope that my colleagues will join me in support of this legislation so that we can ensure that our government operates in an open manner.

HONORING THE GLOBAL VOLUNTEERS ORGANIZATION

HON. BILL LUTHER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. LUTHER. Mr. Speaker, it is with great pride that I commend a group of volunteers who can honestly say that they have impacted and inspired thousands of people and countless communities worldwide: I am speaking of Global Volunteers, a nonprofit international development organization based in St. Paul, Minnesota.

The volunteers' goal is to help establish a foundation for peace through mutual international understanding. To this end, they invest personal time and resources to work anywhere from continental America to Africa, Europe or the Cook Islands. Citizens from throughout our country participate in projects determined and directed by the local communities, doing everything from teaching English to building and painting local facilities, such as classrooms and medical clinics.

As Susan Norman, a volunteer from Texas said: ''It was great to actually be a part of a team doing repair work and maintenance so the peace process [in Ireland] can continue. I learned that peacemaking isn't just facilitating discussion but also repairing walls, cleaning toilets and doing a lot of behind-the-scenes work so the process can happen.'' It is because of thousand of volunteers like Susan that progress toward international peace and understanding is being made. These volunteers are a prime example of people who refuse to become frustrated in light of serious global problems, but rather attempt to solve them, step by step, through personal commitment and dedication.

Now, Global Volunteers had been granted special consultative status to the United Nations by the U.N.'s Economic and Social Council (ECOSOC). This privilege enables Global Volunteers to designate U.N. representatives and attend ECOSOC's meetings. Their consultative status allows the volunteers to make a contribution to the work programs and goals of the United Nations by serving as technical experts, advisers and consultants to governments and the Secretariat. I am confident that Global Volunteers will become a valuable asset to ECOSOC and will continue to build relationships and understanding in the relentless pursuit of global peace and understanding.

Mr. Speaker, I commend Global Volunteers President Bud Philbrook, his spouse Michele Gran, and the crews of volunteers for their hard work and dedication over the past 15 years and I wish them all the best in their ongoing efforts. They serve as ambassadors and role models for all of the citizens of America!

FICO ASSESSMENT ELIMINATION ACT OF 1999

HON. FRANK D. LUCAS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. LUCAS of Oklahoma. Mr. Speaker, I rise today as a member of the Banking Committee having just introduced a bill that will infuse $780 million annually into our economy. The FICO Assessment Elimination Act of 1999 will eliminate an assessment on banks and thrifts that is no longer necessary.

My legislation will eliminate FICO assessments for all financial institutions that are insured by either the Bank Insurance Fund or the Savings Association Insurance Fund. Under current law, banks and thrifts are assessed in order to pay obligations on bonds issued by the Financing Corporation in the last 80's.

Currently, the Bank Insurance Fund and Savings Association Insurance Fund are overcapitalized. There is far more money in these accounts than is needed to insure the safety of the institutions they safeguard. Moreover, these funds have been invested in Government bonds and generate approximately $2 billion in interest earnings every year.

I propose that we use this excess income and reserve level in FDIC funds to pay for the interest due on FICO bonds, and eliminating the FDIC assessment on banks and thrifts completely. I see no reason to charge these institutions $780 million a year when we have a fund that is growing in far excess of what we need to maintain prudential reserves.

Just imagine what that $780 million accomplish in each of our communities. It is estimated that my bill would make $10 billion of credit available next year. This is $10 billion of new credit that would be available for banks and thrifts to lend. This is money that our financial institutions could lend to a first time home buyer or an individual interested in starting a small business. The opportunities this money could provide are endless.

Put this $780 million to work in your community. Support the FICO Assessment Elimination Act of 1999.

TRIBUTE TO CHARLES McWHIRTER

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. HALL. Mr. Speaker, I rise today to pay my last respects to an outstanding citizen of the Fourth District of Texas, Charles Olin McWhirter, who died on August 21, 1999.

Mr. McWhirter was born in 1920 in Greenville, TX, and grew up to serve in the Coast Guard during World War II and take part in the D-Day invasion. He was a member of the class of 1942 at Texas A&M University, and that affiliation would become one of his passions in life.

He and his beautiful wife of 55 years, Marjorie Stanley McWhirter, have endowed several scholarships for deserving students who attend Texas A&M, and they have been patrons of the George Bush Presidential Library at Texas A&M. Mr. McWhirter was a sales executive for the General Electric Co. in Dallas for 32 years. He has been totally successful in every venture of his life. Charles McWhirter stood tall for his values and beliefs and will be remembered for his generosity, integrity and love of family.

He is survived by his wife, Marjorie; son Stan and daughter-in-law Pam; grandson Nicholas, a current student at Texas A&M; his sister, Kathleen Rosenberg; and nephews Ernest and Charles Rosenberg.

On a personal note, Mr. Speaker, I would like to add that Charles McWhirter was one of a group of Texas A&M alumnus who got together and voted to accept me as an Honorary Texas Aggie—one of the greatest recognitions I have ever received. I am invited to the annual Musters and will, in fact, be speaking to the Aggie Muster at the Texas A&M at Commerce campus on Friday of this week. As is customary, Charles McWhirter will live again with us on that day—a day that perpetuates the name and memory of all who knew the fellowship, the fraternal love, and the unbelievable spirit of Aggieland.

Mr. Speaker, as we adjourn today, I ask my colleagues to join me in remembrance of Charles McWhirter.

TRIBUTE TO RALPH HETTICK

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. SHIMKUS. Mr. Speaker, I rise before you today to express my heartfelt gratitude and admiration for Ralph Hettick. His commitment to the country is demonstrated by his service in the infantry during World War II as well as his continued patriotism.

Born on a farm in Macoupin county, Ralph was drafted to fight in the South Pacific Islands during World War II. Proudly serving his country, he was appointed to a demolitation crew which routinely handled heavy explosives to fight enemy soldiers. Ralph returned home after a serious chest injury caused by a Japanese sniper.

Since his service, he has worked in Illinois and raised a wonderful family. He is a member of the American Legion and the Disabled American Veterans. Ralph's patriotism is evident in his constant urging for children to respect the flag and our country. He also generously shares with them his personal experiences and the history of World War II.

I would like to thank Ralph Hettick for being a true example of what a great citizen can do for our country.

IN HONOR OF WILLIAM N. HUBBARD, ESQ.

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay special tribute to William N. Hubbard, Esq. Mr. Hubbard is an honorable citizen who has worked tirelessly to improve the quality of life for countless New Yorkers.

Among Mr. Hubbard's many contributions to the health and well-being of New York City residents, he cofounded the Environmental Action Coalition and was associated with the New York Urban Coalition's Housing Rehabilitation Task Force.

Mr. Hubbard is chairman and president of Center of Development Corporation and of its predecessor, Center for Housing Partnerships, which he formed in 1971 to revitalize urban neighborhoods.

On December 6, 1999, Mr. Hubbard will be honored by Trees New York for his tremendous advocacy for trees and greening in New York, reflected in many of his inner city development projects.

Mr. Hubbard served as general counsel to New York State Senator Thomas Bartosiewicz and is a member of the New York State Democratic Advisory Committee. He is a trustee of the Citizens Housing and Planning Council, a director of the State Council on Waterways, and serves on the executive committee of the Association for a Better New York.

Mr. Hubbard is a graduate of Williams College (1963), the London School of Economics (1964), and he holds a law degree from the University of Virginia (1967). He is a former associate of the Wall Street law firm of Thacher, Proffitt, and Wood, and a former trustee and officer of the City Club of New York where he chaired its Housing Committee.

Mr. Speaker, I salute the life and work of Mr. William N. Hubbard and I ask my fellow Members of Congress to join me in recognizing Mr. Hubbard's contributions to the New York community and to our great country.

RECOGNITION OF CLINTON TOWNSHIP DEMOCRATIC CLUB HONOREE HAROLD BREWER

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. BONIOR. Mr. Speaker, over the course of my career in the Congress, I have had the good fortune of knowing some of the most committed and impassioned volunteers. No one has done more than this year's Clinton Township Democratic Club Honoree Hal Brewer. I have known Hal Brewer for twenty years now. Through the course of that time, Hal has proven himself to be one of the most dedicated, reliable, and fun loving volunteers we have ever seen.

Not only has he provided Democrats in the state of Michigan with countless hours of folding, stuffing, labeling, tree bagging, walking, cheering and sign posting, but he has also managed to raise his family with his same ethics and ideals. His son, Mark Brewer, a former intern in my office, has gone on to become the current chair of the Michigan Democratic Party.

Hal's contribution has gone beyond the average work night or volunteer brunch. He has involved himself in every level of government, from helping his township treasurer to driving in Vice Presidential motorcades. Hal knows everybody, and everybody knows Hal. His sharp with and unequaled charm has put Hal on the top of everyone's call list when help is needed.

Please join me today in honoring one of my district's most tireless advocates for democratic ideals. We salute you, Hal Brewer. Your work ethic and civic pride are an inspiration not only to me, but to all who know you.

A TRIBUTE IN HONOR OF LIBERTY TECHNOLOGIES: AN ENTREPRENEURIAL SUCCESS

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. BARCIA. Mr. Speaker, I rise today to pay tribute to Liberty Technologies, Inc., located in my home town of Bay City, Michigan. for nearly twenty years, Liberty Technologies has been a leading community-oriented business and a fine example of entrepreneurial initiative for Michigan's small businesses.

Liberty Technologies was incorporated in 1981 to develop, formulate, blend and distribute environmentally-friendly detergents, sealers and dispensing systems. The company has since evolved into a dynamic small business in Bay City, and now produces such products as the trade-marked ''The Best Cleaner in The World—World's Best''. This cleaner is environmentally-friendly, biodegradable and non-toxic, characteristics which are goals of many companies that are attempting to redesign products which are less harsh on the environment. The company is also leading the way in innovative technologies, such as its web sites, www.worldsbestcleaner.com and www.quicknkleen.com, and its emphasis on continued research and development. But more importantly, the company has invested in the community. It has donated its products to the annual Bay City Fourth of July Fireworks Festival, Bay County's Created For Caring, which provides for the less fortunate, the Bay Medical Foundation, and many other civic organizations.

Liberty Technologies has been the recipient of a distinguished award. The company received the 1999 Certificate of Merit from the Small Business Association of Michigan, for entrepreneurial experience in developing ''products and services that are truly unique and serve a genuine market need.'' The company's product ''The Best Cleaner in The World—World's Best'' has been officially recognized by the United States Patent Office.

As this millennium nears to a close, we see that communities across America are becoming more and more successful due to small businesses, and the entrepreneurs who found, oversee and represent these businesses. For many in Bay County, Liberty Technologies serves as just such an example of a local success story.

Mr. Speaker, I invite you and our colleagues to join with me to congratulate Liberty Technologies, for its commitment to the community and for entrepreneurial initiative.

TRIBUTE TO AQUINAS HOUSING CORPORATION

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. SERRANO. Mr. Speaker, it is with joy and pride that I rise to pay tribute to Aquinas Housing Corporation (AHC) which celebrated its 18th anniversary of providing services to the community on Wednesday, November 3, 1999, at the Marina Del Rey restaurant to families in need.

Aquinas Housing Corporation was founded in 1981 by a group of volunteers who understood the need to provide quality transitional housing services to families in need.

Mr. Speaker, over the past 18 years, Aquinas Housing Corporation has sponsored and developed the rehabilitation of 35 buildings, 990 residential units, 104 cooperatives, and 115 two-and three-family homes. By the year 2000, AHC plans to renovate 10 more buildings with 160 additional units for a total of 1,152 decent and affordable rental housing units that were nonexistent prior to AHC's creation.

Along with housing development, AHC provides a full range of social services to the residents of its buildings and community at large. Services offered include an adult job readiness program, a computer learning center, a clothing bank, case management, tenant organizing, neighborhood improvement projects, classes in English as a second language, parenting skills, senior services, a home-based child care resource and referral center, a tree maintenance program, and activities and field trips for youth and seniors.

It is a privilege for me to represent the 16th district of New York where Aquinas Housing Corporation is located, and I am delighted by its success. I have witnessed first-hand the exemplary work they are doing for our community and I am deeply impressed. I applaud the commitment and the efforts of Aquinas Housing Corporation's staff in the assistance they provide to the elderly, and low- and moderate-income families, as well as, in facilitating educational opportunities for our talented youth.

I would like to especially compliment this year's honorees, St. Thomas Aquinas Elementary School, St. Barnabas Hospital, and the Bank Street College of Education Center for Family Support, for their leadership in improving the quality of life in our community.

Mr. Speaker, St. Thomas Aquinas Elementary School, an institution which provides quality and caring instruction to the younger members of the community, will receive the Community Education Award, St. Barnabas Hospital, which offers a wide range of services at both their main facility and their numerous satellites throughout the borough, will receive the Community Health Services Award, and the Bank Street College of Education Center for Family Support will receive the Community Family Support Award.

Mr. Speaker, I ask my colleagues to join me in recognizing the Aquinas Housing Corporation and its staff and in wishing them continued success.

TRIBUTE TO WALTER P. KENNEDY

HON. JOHN J. DUNCAN, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. DUNCAN. Mr. Speaker, recently, the United States, and the House of Representatives in particular, lost a true public servant. On October 24, long-time Sergeant-at-Arms Walter P. Kennedy passed away at the age of 78.

I first met Mr. Kennedy when my father, John J. Duncan, was a Member of this Body. Daddy always had nice things to say about Mr. Kennedy. I, too, found Mr. Kennedy to be a consummate and dedicated member of the House family. He was a fine Christian man who had a special bond with Members on both sides of the aisle.

Mr. Speaker, Walter Kennedy was also a great family man. He and his wife of 53 years, Ana Luisa Bou, raised a family of seven beautiful children, all of whom still live in the Washington area.

Mr. Kennedy also enjoyed success after his service in the House of Representatives. For six years, he served as Chairman and CEO of the Kennedy Group Companies, a consulting and public relations firm based here in Washington, D.C.

Walter Kennedy set an example that we should all try to follow. He was truly a great American and gave tirelessly to many good causes. He was a volunteer for the Boy Scout program for many years and a long-time and dedicated member of the Catholic Church.

Mr. Speaker, I would like to add my condolences and best wishes to the Kennedy family. America has lost a true statesman in this fine man. The United States would be a far better place if we had more men like Walter P. Kennedy.

I submit a copy of Mr. Kennedy's obituary that I would like to call to the attention of my colleagues and other readers of the RECORD.

[Press Release from the Kennedy Companies, Oct. 25, 1999]

RETIRED REPUBLICAN SERGEANT-AT-ARMS, U.S. HOUSE OF REPRESENTATIVES

Walter P. Kennedy, retired Republican Sergeant-at-Arms, U.S. House of Representatives (1950–1993) and a 43 year resident of Bethesda, MD, died on Sunday, October 24, 1999 in the Coronary Intensive Care Unit of the Washington Hospital Center. He was 78.

Born to Thomas Kennedy and Mary Stella McElvogue on February 23, 1921, he was an immigrant with them from Ireland in 1924. He was raised in Paterson, New Jersey.

During World War II, he served in the Army from February 1943 to November 1945. In 1943, as his unit was preparing to deploy, he became a naturalized citizen. He saw combat in France, Germany and Austria as a medic in the 63rd Engineer Battalion, 44th Infantry Division.

After his discharge from the service, he completed his studies at Seton Hall College, in New Jersey and went on to receive a law degree from Georgetown University in Washington, D.C.

He began a 44 year career in the U.S. Congress in 1950 as the chief administrative assistant for the Hon. Gordon Canfield of New Jersey, retiring in 1993 as the Republican Sergeant-at-Arms for the last couple of decades. In his position with Republican Leadership, he served under Charles Haleck, Gerald Ford, John Rhodes and Bob Michel.

Mr. Kennedy's 44 years of Congressional service is significant inasmuch as it represent more than 25% of all the years Congress has been in existence.

Notably, on the day of his retirement, he was honored by the House of Representatives while it was in session with impromptu speeches by many Members.

Subsequent to his retirement, he logged an additional 6 years on Capitol Hill with consulting, political fundraising and public relations through The Kennedy Group Companies of Washington, D.C., for which he was the Chairman and CEO.

Since the death of his father, he had been the patriarch of a big and very close-knit family. He is survived by his wife, Ana Louisa Bou, to whom he was married for more than 53 years, 7 children, Walter P. Kennedy, Jr., Ana L. Kennedy, Thomas F. Kennedy, Dennis M. Kennedy, Stella M. Kennedy-Dail, Kevin J. Kennedy, and Kathleen P. Kennedy McGovern, 4 daughters-in-law and a son-in-law, 12 grandchildren, all who reside in the great Washington, D.C., metropolitan area. He, himself, was the oldest of four children and he is survived by a brother, three sisters, their spouses and children. He was also the brother for two sister-in-laws, Ernestina Bou and Marie Isabel Pelalas.

He was active with the Boy Scouts and the Catholic Committee on Scouting for more than 40 years. Since 1956 he was an active member of Holy Redeemer Roman Catholic Church in Kensington, Maryland, particularly with the Holy Name Society and the Social Concerns Committee. He was an active member and a Knight of the 4th Degree in the Knights of Columbus.

He was a man of leadership and vision, but also, above all else, a good, honest and kind man. Though never losing focus on the future (which he always maintained as promising), he would consider everyone, yet remain vigilant for the underdog.

He was loved deeply by all and he will be greatly missed.

HONORING DR. BARNETT SLEPIAN

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. HOLT. Mr. Speaker, this past October 23rd marked the one-year anniversary of the death of Dr. Barnett Slepian. Dr. Slepian was an obstetrician-gynecologist who provided birth control and fertility service, delivered babies, and, when needed, performed abortions. One year ago Dr. Slepian was shot through the window of his own home in Buffalo, New York. A year later, the murder of Dr. Slepian still casts a chill on everyone who believes in a woman's right to reproductive freedom.

To this day, I am shocked and saddened by the death of Dr. Slepian. For more than a decade, he had bravely stood up to terrorists threats, never wavering in his commitment to his patients and to women's reproductive health. I salute Dr. Slepian's courage and that of reproductive health care workers across the nation. My heartfelt condolences go out to his family, friends, and colleagues.

A nationwide campaign of violence, vandalism, and blockades is curtailing the availability of abortion services and endangering providers and patients. Since 1993, three doctors, two clinic employees, a clinic escort, and a security guard have been murdered. And although clinic protection laws at the state and federal level have alleviated some forms of violence against abortion clinics, the threats, intimidation, and violence against clinic providers and staff continues. This domestic terrorism hinders access to abortion services and threatens the lives of those dedicated in ensuring a woman's right to choose and therefore, must be stopped.

RECOGNITION OF CLINTON TOWNSHIP DEMOCRATIC CLUB HONOREE ELEANOR TOCCO

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. BONIOR. Mr. Speaker, at the heart of every political organization, is a team of volunteers. Tonight, the Clinton Township Democratic Club honors one of its most active members, Eleanor Tocco. Eleanor Tocco is the water that keeps the grass roots growing. As a retired teacher and member of the Michigan Education Association, Eleanor has organized teachers, both active and retired, to get directly involved in the political process.

Eleanor realized early on that the legislative process has a direct effect on the welfare of teachers, students and education. She has been invaluable—educating not only our children, but also her fellow teachers. Because of Eleanor's outreach, on any given work night or phone bank in the Tenth District, a new teacher will show up. She has brought in educators who would normally have no other interest in the political process, and made them a part of shaping policy.

The idea that your life slows down once you retire was lost on Eleanor. She always seems to be in full gear. Whether it is stuffing a mailing, working a bingo, or directing a project for MEA Local One, Eleanor is always in the middle of it, and is always good for rounding up more volunteers to help out. We can count on her to be outspoken and true to her beliefs—qualities that I greatly respect.

Thank you, Eleanor, for your years of service to your profession and to your chosen party. The Democrats in Macomb County are better organized, better represented, better served for having you among our ranks.

IN MEMORY OF BARBARA KNIPP

HON. RALPH M. HALL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mr. HALL of Texas. Mr. Speaker, I rise today to pay tribute to a woman who was an outstanding citizen of the Fourth District of Texas—Barbara Alice Knipp of Ladonia, who died on July 3, 1999, at her residence. Barbara was devoted to her community and to her family, and she will be missed by all who knew her.

Barbara was born on April 20, 1921, in English, Red River County, TX, the daughter of Theodore R. and Annie Bell Hunter Duncan. She was a member of Business and Professional Women, worked as a dental assistant and office manager for 34 years, taught at Lawton College of Dentistry at the University of California at Los Angeles (UCLA), and worked in office management and as a consultant. She was president of American Legion Post 247 in Honey Grove and served as fourth district chaplain. She also served as Girls State chairman for Post 247 and Post 17.

In 1993 she married Joseph Daniel Knipp in Wolfe City. She is survived by her husband, son and daughter-in-law Don and Bobbie Callaway; sons Clay, Ray and Bobby Knipp; daughter and son-in-law Joan and Kenneth Alexander; daughter Margaret Manning; sister and brother-in-law Kay and Don Loden; sister-in-law and brother-in-law Bobbie and Sam Smith; 18 grandchildren, 23 great-grandchildren and four great-great-grandchildren. She was preceded in death by her parents, brother Martin Duncan, a baby brother and a son, Kenneth Callaway.

Barbara was a kind and caring person. She was a longtime valued close personal friend to me and my entire family. She loved her family and loved life. Barbara, in her last battle against cancer, fought bravely—as did her husband, J.D., and her entire family. It is for Barbara—and others in the desperate and menacing clutches of cancer, that we continue to fund medical research—and use the bioreactor in the space station to seek answers to cancer, diabetes, heart, and other dreaded diseases. So Mr. Speaker, as we adjourn today, let us do so in memory of Barbara Alice Knipp and her many contributions to the life of her community and to her family.

IN HONOR OF FRANCES LoPRESTO

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 9, 1999

Mrs. MALONEY of New York. Mr. Speaker, I rise today to pay special tribute to Frances

LoPresto. Ms. LoPresto has been a civic activist and pillar of the Queens, New York community for more than 50 years. Ms. LoPresto's dedication and service to neighborhoods all across Queens deserves our recognition. Her years of community leadership serve as a model for future generations.

Ms. LoPresto is a member of the United Community Civic Association (UCCA) of Jackson Heights, New York and is on UCCA's Board of Directors. She is also a Board member of the Kiwanis Club of Jackson Heights. In this leadership position, Ms. LoPresto has initiated the Kiwanis mission of service; to the advancement of individual, community, and national welfare; and to the strengthening of international goodwill.

During the Second World War, Ms. LoPresto joined a national effort to protect against air attacks through the Civil Defense Alert Team. She traveled night after night, in rain, sleet, or snow, to make sure all lights were turned off.

Additionally, Ms. LoPresto has been a District Leader in Astoria, Queens for many years. In this role, she has contributed to community dialogue on issues of public concern and sustained the spirit of civic participation so important to our nation's health and well-being.

Mr. Speaker, I salute the life and work of Ms. Frances LoPresto and I ask my fellow Members of Congress to join me in recognizing her significant contributions to the Queens community and to our great nation.

Daily Digest

HIGHLIGHTS

The House passed H.J. Res. 78, making further continuing appropriations for fiscal year 2000

Senate

Chamber Action

Routine Proceedings, pages S14339–S14435

Measures Introduced: Fourteen bills and five resolutions were introduced, as follows: S. 1885–1898, and S. Res. 226–230. **Pages S14407–08**

Measures Reported: Reports were made as follows:

S. 1627, to extend the authority of the Nuclear Regulatory Commission to collect fees through 2004, with an amendment in the nature of a substitute. (S. Rept. No. 106–220)

S. 979, to amend the Indian Self-Determination and Education Assistance Act to provide for further self-governance by Indian tribes, with an amendment in the nature of a substitute. (S. Rept. No. 106–221) **Page S14406**

Measures Passed:

Majority Party Committee Appointment: Senate agreed to S. Res. 228, making changes to Senate committees for the 106th Congress. **Pages S14434–35**

Majority Party Committee Appointments: Senate agreed to S. Res. 229, making certain majority appointments to certain Senate committees for the 106th Congress. **Page S14435**

Enrollment Requirement Waiver for Appropriations: Senate passed H.J. Res. 76, waiving certain enrollment requirements for the remainder of the first session of the One Hundred Sixth Congress with respect to any bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2000, clearing the measure for the President. **Page S14435**

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 S14340–70, S14372–80, S14383–95

Adopted:

By 54 yeas to 44 nays (Vote 357), Domenici Amendment No. 2547, to increase the Federal minimum wage and protect small business.

Pages S14340, S14351–53

Leahy (for Feingold) Amendment No. 2745, to prohibit the retroactive assessment of disposable income. **Page S14354**

Leahy (for Robb) Amendment No. 1723, to clarify the amount of payments to be returned to a debtor if a plan is not confirmed. **Page S14354**

Grassley Amendment No. 1731, to provide for a waiver of filing fees in certain bankruptcy cases. **Page S14354**

Leahy (for Feingold/Specter) Amendment No. 2743, to modify the standard for the award of attorneys' fees. **Page S14354**

Grassley (for Hatch) Amendment No. 1714, to provide for improved enforcement of criminal bankruptcy filing provisions. **Page S14354**

Grassley (for Hatch) Amendment No. 1715, to amend section 707 of title 11, United States Code, to provide for the dismissal of certain cases filed under chapter 7 of that title by a debtor who has been convicted of a crime of violence or a drug trafficking crime. **Page S14354**

Leahy (for Kerry) Amendment No. 1725, to amend plan filing and confirmation deadlines. **Pages S14354–55**

Grassley (for Collins) Amendment No. 1726, to provide for family fishermen. **Pages S14354–55**

Leahy (for Johnson) Amendment No. 2654, to provide chapter 7 trustees with reasonable compensation for their work in managing the ability to pay test. **Pages S14354–55**

Grassley (for DeWine) Amendment No. 1727, to provide for the nondischargeability of certain educational benefits and loans. **Pages S14354–56**

Grassley/Feinstein Amendment No. 2514, to amend title 11 of the United States Code, with respect to the creation or perfection of a statutory lien

for an ad valorem property tax, or a special tax or special assessment on real property whether or not ad valorem, imposed by a governmental unit, if such tax or assessment comes due after the filing of the petition. **Pages S14354–56**

Leahy (for Robb) Modified Amendment No. 1722, to provide that duties of a trustee shall include providing certain information relating to case administration. **Page S14383**

Leahy (for Byrd) Modified Amendment No. 2530, to make an amendment with respect to credit card applications and solicitations that are electronically provided to consumers. **Page S14383**

Grassley (for Bennett) Amendment No. 2546, to amend certain banking and securities laws with respect to financial contracts. **Page S14383**

Leahy (for Feingold) Amendment No. 2749, to clarify the bankruptcy jurisdiction over insolvent political committees. **Page S14383**

Leahy (for Feingold) Amendment No. 2750, to make fines and penalties imposed under Federal election law nondischargeable. **Page S14383**

Grassley (for Roth/Moynihan) Modified Amendment No. 2758, to provide for tax-related bankruptcy provisions. **Pages S14383–86**

Leahy (for Levin) Amendment No. 2768, to prohibit certain retroactive finance charges.

Pages S14340, S14383–86

Leahy (for Levin) Modified Amendment No. 2772, to express the sense of the Senate concerning credit worthiness. **Pages S14340, S14383–86**

Leahy/Murray/Feinstein Amendment No. 2528, to ensure additional expenses and income adjustments associated with protection of the debtor and the debtor's family from domestic violence are included in the debtor's monthly expenses.

Pages S14340, S14383–86

Leahy (for Kohl) Amendment No. 2664, to exclude employee benefit plan participant contributions and other property from the estate.

Pages S14383–86

Leahy (for Kohl) Amendment No. 2665, to clarify the allowance of certain postpetition wages and benefits. **Pages S14383–86**

Rejected:

Kennedy Amendment No. 2751, to amend the Fair Labor Standards Act of 1938 to increase the Federal minimum wage. (By 50 yeas to 48 nays (Vote No. 356), Senate tabled the amendment.)

Pages S14340–51

Feingold (for Durbin) Amendment No. 2521, to discourage predatory lending practices. (By 51 yeas to 46 nays, 1 responding present (Vote No. 358), Senate tabled the amendment.)

Pages S14340, S14374–77

Dodd/Kennedy Amendment No. 2754, to amend the Truth in Lending Act with respect to extensions of credit to consumers under the age of 21. (By 59 yeas to 38 nays (Vote No. 359), Senate tabled the amendment.) **Pages S14358–63, S14373–74, S14377–80**

Pending:

Kohl Amendment No. 2516, to limit the value of certain real or personal property a debtor may elect to exempt under State or local law. **Page S14340**

Sessions Amendment No. 2518 (to Amendment No. 2516), to limit the value of certain real or personal property a debtor may elect to exempt under State or local law. **Page S14340**

Feingold Amendment No. 2522, to provide for the expenses of long term care. **Page S14340**

Hatch/Torricelli Amendment No. 1729, to provide for domestic support obligations. **Page S14340**

Leahy Amendment No. 2529, to save United States taxpayers $24,000,000 by eliminating the blanket mandate relating to the filing of tax returns. **Page S14340**

Wellstone Amendment No. 2537, to disallow claims of certain insured depository institutions. **Page S14340**

Wellstone Amendment No. 2538, with respect to the disallowance of certain claims and to prohibit certain coercive debt collection practices. **Page S14340**

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 S14340**

Feinstein Amendment No. 2755, to discourage indiscriminate extensions of credit and resulting consumer insolvency. **Page S14340**

Schumer/Durbin Amendment No. 2759, with respect to national standards and homeowner home maintenance costs. **Page S14340**

Schumer/Durbin Amendment No. 2762, to modify the means test relating to safe harbor provisions. **Page S14340**

Schumer Amendment No. 2763, to ensure that debts incurred as a result of clinic violence are nondischargeable. **Page S14340**

Schumer Amendment No. 2764, to provide for greater accuracy in certain means testing. **Page S14340**

Schumer Amendment No. 2765, to include certain dislocated workers' expenses in the debtor's monthly expenses. **Page S14340**

Dodd Amendment No. 2531, to protect certain education savings. **Pages S14356–57**

Dodd Modified Amendment No. 2532, to provide for greater protection of children.

Pages S14356–57, S14387–93

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. **Pages S14356–58**

Hatch/Dodd/Gregg Amendment No. 2536, to protect certain education savings. **Pages S14363–64**

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 S14367–68**

Schumer/Santorum Amendment No. 2761, to improve disclosure of the annual percentage rate for purchases applicable to credit card accounts. **Page S14372**

Durbin Amendment No. 2659, to modify certain provisions relating to pre-bankruptcy financial counseling. **Page S14374**

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. **Page S14374**

A unanimous-consent agreement was reached providing for further consideration of the bill and an amendment to be proposed thereto, on Wednesday, November 10, 1999. **Page S14435**

Nominations—Agreement: A unanimous-consent agreement was reached providing for the consideration of the nominations of Carol Moseley-Braun, of Illinois, to be Ambassador to New Zealand, and to serve concurrently and without additional compensation as Ambassador to Samoa, and Linda Joan Morgan, of Maryland, to be a Member of the Surface Transportation Board, on Wednesday, November 10, 1999, with votes to occur thereon. **Pages S14382–83**

Appointment:

NATO Parliamentary Assembly: The Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appointed the following Senators as members of the Senate Delegation to the North Atlantic Assembly (NATO Parliamentary Assembly) during the First Session of the 106th Congress, to be held in Amsterdam, The Netherlands, November 11–15, 1999: Senators Grassley, Bennett, and Akaka. **Page S14435**

Messages From the President: Senate received the following messages from the President of the United States:

Transmitting a report relative to the continuation of the National Emergency with respect to Iran; referred to the Committee on Banking, Housing, and Urban Affairs. (PM–71). **Page S14428**

Transmitting a periodic report relative to the National Emergency with respect to Sudan; referred to the Committee on Banking, Housing, and Urban Affairs. (PM–72). **Page S14428**

Nominations Received: Senate received the following nominations:

Anthony M. Merck, of South Carolina, to be a Federal Maritime Commissioner for the term expiring June 30, 2001.

James John Hoecker, of Virginia, to be a Member of the Federal Energy Regulatory Commission for the term expiring June 30, 2005.

Mark L. Schneider, of California, to be Director of the Peace Corps.

Mel Carnahan, of Missouri, to be a Member of the Board of Trustees of the Harry S Truman Scholarship Foundation for a term expiring December 10, 2005.

Randolph D. Moss, of Maryland, to be an Assistant Attorney General.

John R. Lacey, of Connecticut, to be Chairman of the Foreign Claims Settlement Commission of the United States for a term expiring September 30, 2000.

Laramie Faith McNamara, of Virginia, to be a Member of the Foreign Claims Settlement Commission of the United States for a term expiring September 30, 2001. **Page S14435**

Nominations Withdrawn: Senate received notification of the withdrawal of the following nominations:

Beth Nolan, of New York, to be an Assistant Attorney General, vice Walter Dellinger, which was sent to the Senate on March 5, 1999. **Page S14435**

Marshall S. Smith, of California, to be Deputy Secretary of Education, vice Madeleine Kunin, which was sent to the Senate on March 25, 1999. **Page S14435**

Messages From the President: **Page S14428**

Messages From the House: **Page S14405**

Communications: **Page S14406**

Petitions: **Page S14406**

Executive Reports of Committees: **Pages S14406–07**

Statements on Introduced Bills: **Pages S14408–23**

Additional Cosponsors: **Pages S14423–25**

Authority for Committees: **Page S14428**

Additional Statements: **Pages S14429–34**

Enrolled Bills Presented: **Page S14406**

Enrolled Bills Signed: **Page S14406**

Record Votes: Four record votes were taken today. (Total—359) **Pages S14351, S14353, S14377, S14379–80**

Adjournment: Senate convened at 9:31 a.m., and adjourned at 7:38 p.m., until 9:30 a.m., on Wednesday, November 10, 1999. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S14435.)

Committee Meetings

(Committees not listed did not meet)

NOMINATIONS

Committee on Armed Services: Committee ordered favorably reported certain military nominations in the Army, Marine Corps, and Navy.

NOMINATIONS

Committee on Banking, Housing, and Urban Affairs: Committee ordered favorably reported the nominations of Gregory A. Baer, of Virginia, to be Assistant Secretary of the Treasury for Financial Institutions, and Susan M. Wachter, of Pennsylvania, to be Assistant Secretary of Housing and Urban Development for Policy Development and Research.

NOMINATION

Committee on Foreign Relations: On Monday, November 8, Committee ordered favorably reported the nomination of Carol Moseley-Braun, of Illinois, to be Ambassador to New Zealand, and to serve concurrently and without additional compensation as Ambassador to Samoa.

PRIVATE BANKING

Committee on Governmental Affairs: Permanent Subcommittee on Investigations held hearings to examine the vulnerabilities of United States private banks to money laundering, focusing on how they accept clientele, use shell corporations and secrecy jurisdictions to open accounts and move funds, monitor clients and transactions, and identify and respond to suspicious activity, receiving testimony from Elise J. Bean, Deputy Chief Counsel to the Minority, and Robert L. Roach, Counsel to the Minority, both of the Permanent Subcommittee on Investigations; Amy G. Elliott, Albert Misan, Alain Ober, and G. Edward Montero, all of the Citibank Private Bank, and John S. Reed, Citigroup, all of New York, New York.

Hearings continue tomorrow.

House of Representatives

Chamber Action

Bills Introduced: 28 public bills, H.R. 3261–3288; 1 private bill, H.R. 3289; and 11 resolutions, H.J. Res. 77–78, H. Con. Res. 221–224, and H. Res. 368–372, were introduced. **Pages H11852–53**

Reports Filed: Reports were filed today as follows:

Conference report on H.R. 1554, 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 (H. Rept. 106–464).

Pages H11769–H11818, H11852

Guest Chaplain: The prayer was offered by the guest Chaplain, Rabbi Joel Kessler of Potomac, Maryland. **Page H11712**

Recess: The House recessed at 9:38 a.m. and reconvened at 10:00 a.m. **Page H11712**

Waiving Enrollment Requirements: The House passed H.J. Res. 76, waiving certain enrollment requirements for the remainder of the first session of the One Hundred Sixth Congress with respect to any bill or joint resolution making general appropriations or continuing appropriations for fiscal year 2000. Subsequently, H. Res. 365, a rule to provide consideration of the joint resolution was laid on the table. **Pages H11716–17**

Honoring the National Guard's 109th Airlift Wing: The House agreed to H. Con. Res. 205, recognizing and honoring the heroic efforts of the Air National Guard's 109th Airlift Wing and its rescue of Dr. Jerri Nielsen from the South Pole.

Pages H11717–18

Suspensions: The House agreed to suspend the rules and pass the following measures:

Restoring Certain Lands to Elim Native Corporation: H.R. 3090, amended, to amend the Alaska Native Claims Settlement Act to restore certain lands to the Elim Native Corporation;

Pages H11718–20

Aquatic Restoration Projects: H.R. 1444, amended, to authorize the Secretary of the Army to develop and implement projects for fish screens, fish passage devices, and other similar measures to mitigate adverse impacts associated with irrigation system water diversions by local governmental entities in the

States of Oregon, Washington, Montana, Idaho, and California. Agreed to amend the title;

Pages H11720–22

Plaque Commemorating Martin Luther King's "I Have a Dream" Speech at the Lincoln Memorial: H.R. 2879, to provide for the placement at the Lincoln Memorial of a plaque commemorating the speech of Martin Luther King, Jr., known as the "I Have A Dream" speech; **Pages H11722–23**

Trafficking of Baby Body Parts: H. Res. 350, expressing the sense of the House of Representatives with respect to private companies involved in the trafficking of baby body parts for profit;

Pages H11723–28

Veterans Benefits Improvement Act: H. Res. 368, providing for the concurrence by the House with amendments in the amendment of the Senate to H.R. 2280, to amend title 38, United States Code, to provide a cost-of-living adjustment in rates of compensation paid for service-connected disabilities, to enhance the compensation, memorial affairs, and housing programs of the Department of Veterans Affairs, to improve retirement authorities applicable to judges of the United States Court of Appeals for Veterans Claims; **Pages H11728–29**

Printing of Brochures on the United States Government: H. Con. Res. 221, authorizing printing of the brochures entitled "How Our Laws Are Made" and "Our American Government", the pocket version of the United States Constitution, and the document-sized, annotated version of the United States Constitution; **Pages H11729–30**

Honesty in Sweepstakes: S. 335, amended, to amend Chapter 30 of title 39, United States Code, to provide for the nonmailability of certain deceptive matter relating to sweepstakes, skill contests, facsimile checks, administrative procedures, orders, and civil penalties relating to such matter;

Pages H11818–25

Celebrating the Fall of the Berlin Wall: H. Con. Res. 223, expressing the sense of the Congress regarding Freedom Day (agreed to by yea and nay vote of 417 yeas with none voting "nay", Roll No. 580); and **Pages H11763–69, H11825–26**

Satellite Home Viewer Act: Agreed to the Conference Report on H.R. 1554, 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 (agreed to by yea and nay vote of 411 yeas to 8 nays, Roll No. 581). **Pages H11769–H11818, H11826–27**

Electronic Signatures in Global and National Commerce: The House passed H.R. 1714, to facilitate the use of electronic records and signatures in interstate or foreign commerce (passed by a recorded vote of 356 ayes to 66 noes, Roll No. 579).

Pages H11732–55, H11762–63

Agreed to the amendment in the nature of a substitute printed in the Congressional Record of November 8 and numbered 1, as amended, pursuant to the rule. **Pages H11741–55**

Agreed to the Inslee amendment that requires affirmative consent to receive electronic records; allows the consumer to retain the records and withdraw consent as desired; and clarifies that provisions do not affect any disclosures required under regulation or law by a recorded vote of 418 ayes to 2 noes, Roll No. 577. **Pages H11743–49**

Rejected the Dingell amendment in the nature of a substitute that sought to recognize the validity of electronic signatures and records in commercial transactions by a recorded vote of 126 ayes to 278 noes, Roll No. 578. **Pages H11749–55**

H. Res. 336, the rule that provided for consideration of the bill was agreed to by voice vote.

Pages H11731–32

Intelligence Authorization Act for Fiscal Year 2000: The House agreed to the conference report on H.R. 1555, to authorize appropriations for fiscal year 2000 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System.

Pages H11755–62

The conference report was considered pursuant to a unanimous consent request made earlier by Representative Dreier; and H. Res. 364, a rule to waive points of order against the conference report was laid on the table. **Page H11716**

Making Continuing Appropriations: The House passed H.J. Res. 78, making further continuing appropriations for the fiscal year 2000. **Pages H11828–29**

The joint resolution was considered pursuant to a unanimous consent request made earlier by Chairman Young of Florida. **Page H11828**

Consideration of Suspensions: Pursuant to H. Res. 353, providing for consideration of motions to suspend the rules, Mr. Lazio announced that the following measures would be considered under suspension of the rules on Wednesday, Nov. 10, 1999: H. Res. 41, H.R. 1869, H.R. 2336, H.R. 2442, H. Con. Res. 122, H.R. 3234, and H.R. 2454.

Page H11828

Presidential Messages: Read the following messages from the President:

National Emergency Re Iran: Message wherein he transmitted his report on the national emergency

with respect to Iran—referred to the Committee on International Relations and ordered printed H. Doc. 106–156; and **Page H11829**

National Emergency Re Sudan: Message wherein he transmitted his report on the national emergency with respect to Iran—referred to the Committee on International Relations and ordered printed H. Doc. 106–157. **Page H11830**

Senate Messages: Messages received from the Senate appear on pages H11712 and H11763.

Referrals: S. 923, S. Con. Res. 30, and S. Con. Res. 68 were referred to the Committee on International Relations; S. 1398 was referred to the Committee on Resources; and S. 1809 was referred to the Committee on Education and the Workforce. **Page H11851**

Quorum Calls—Votes: Two yea and nay votes and three recorded votes developed during the proceedings of the House today and appear on pages H11749, H11754–55, H11762, H11826, and H11826–27. There were no quorum calls.

Adjournment: The House met at 9:00 a.m. and adjourned at 12:00 p.m.

Committee Meetings

HOMEOWNERS' INSURANCE AVAILABILITY ACT

Committee on Banking and Financial Services: Began markup of H.R. 21, Homeowners' Insurance Availability Act of 1999.

MEDICAID FRAUD AND ABUSE

Committee on Commerce: Subcommittee on Oversight and Investigations held a hearing on Medicaid Fraud and Abuse: Assessing State and Federal Responses. Testimony was heard from Leslie Aronovitz, Director, Chicago Field Office, GAO; the following officials of the Department of Health and Human Services: John E. Hartwig, Deputy Inspector General, Inspections; and Penny Thompson, Medicare Program Integrity Group, Health Care Financing Administration; John Krayniak, Director, Medicaid Fraud Control Unit, Division of Criminal Justice, State of New Jersey; Mark Fecteau, Assistant Director, Bureau of Medical Services, Department of Human Services, State of Maine; and public witnesses.

FORCE PROTECTION

Committee on Government Reform: Subcommittee on National Security, Veterans' Affairs and International Relations held a hearing on Force Protection: Improving Safeguards for Administration of Investigational New Drugs to Members of the Armed Forces. Testimony was heard from John Spotila, Administrator, Office of Information and Regulatory Affairs, OMB; Sue Bailey, Assistant Secretary, Health Affairs, Department of Defense; William Raub, Deputy Assistant Secretary, Science Policy, Department of Health and Human Services; and public witnesses.

MISCELLANEOUS MEASURES; U.S. POLICY TOWARD HAITI

Committee on International Relations: Ordered reported, as amended, H.R. 3244, to combat trafficking of persons, especially into the sex trade, slavery, and slavery-like conditions in the United States and countries around the world through prevention, through prosecution and enforcement against traffickers, and through protection and assistance to victims of trafficking.

The Committee also favorably considered the following resolutions and adopted a motion urging the Chairman to request that they be considered on the Suspension Calendar: H. Con. Res. 165, expressing United States policy toward the Slovak Republic; H. Con. Res. 169, amended, expressing United States policy toward Romania; H. Con. Res. 206, amended, 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. 222, 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; H. Con. Res. 211, 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; and H. Con. Res. 200, amended, expressing the strong opposition of Congress to the military coup in Pakistan and calling for a civilian, democratically-elected government to be returned to power in Pakistan.

The Committee also held a hearing on U.S. Policy Toward Haiti. Testimony was heard from Senators DeWine and Graham; Representatives Goss and Conyers; and Ambassador Peter Romero, Acting Assistant Secretary, Western Hemisphere Affairs, Department of State.

MISCELLANEOUS MEASURES

Committee on Transportation and Infrastructure, Subcommittee on Economic Development, Public Buildings, Hazardous Materials and Pipeline Transportation approved for full Committee action the following: GSA's Fiscal Year 2000 leasing program; 17 resolutions, including 2 11(b) resolutions; and H.R. 809, amended, Federal Protective Service Reform Act of 1999.

WAGE AND EMPLOYMENT GROWTH ACT; ADMINISTRATION'S NEW SOCIAL SECURITY PLAN

Committee on Ways and Means: Ordered reported, as amended, H.R. 3081, Wage and Employment Growth Act of 1999.

The Committee also held a hearing on the Administration's new Social Security plan. Testimony was heard from Lawrence H. Summers, Secretary of the Treasury; David M. Walker, Comptroller General, GAO; and Dan L. Crippen, Director, CBO.

Joint Meetings

VETERANS' MILLENNIUM HEALTH CARE ACT

Conferees continued in evening session to resolve the differences between the Senate and House passed versions of 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.

NEW PUBLIC LAWS

(For last listing of Public Laws, see DAILY DIGEST, *p. D1276)*

H.R. 1175, to locate and secure the return of Zachary Baumel, an American citizen, and other Israeli soldiers missing in action. Signed November 8, 1999. (P.L. 106–89)

H.J. Res. 62, to grant the consent of Congress to the boundary change between Georgia and South Carolina. Signed November 8, 1999. (P.L. 106–90)

COMMITTEE MEETINGS FOR WEDNESDAY, NOVEMBER 10, 1999

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Foreign Relations: Subcommittee on International Operations, to hold hearings to examine the work of the overseas presence review panel, 2 p.m., SD–419.

Committee on Governmental Affairs: Permanent Subcommittee on Investigations, to hold hearings to examine the vulnerabilities of United States private banks to money laundering, 1 p.m., SD–628.

Committee on the Judiciary: business meeting to consider pending calendar business, Time to be announced, Room to be announced.

Full Committee, to hold hearings on pending nominations, 10 a.m., SD–226.

House

Committee on Armed Services, Subcommittee on Military Procurement, hearing on the results of the Department of Energy's Inspector General inquiries into specific aspects of the espionage investigations at the Los Alamos National Laboratory, 10 a.m., 2118 Rayburn.

Committee on Banking and Financial Services, Subcommittee on Capital Markets, Securities and Government Sponsored Enterprises, hearing on Capital Formation in Underserved Areas, 10 a.m., 2128 Rayburn.

Committee on Government Reform, to consider the following: a committee draft report entitled: "The FALN and Macheteros Clemency: Misleading Explanations, A Reckless Decision, A Dangerous Message"; a resolution of Immunity for Yah Lin "Charlies" Trie; H.R. 2376, to require agencies to establish expedited review procedures for granting a waiver to a State under a grant program administered by the agency if another State has already been granted a similar waiver by the agency under such program; and H.R. 1827, Government Waste Corrections Act of 1999, 10:30 a.m., 2154 Rayburn.

Committee on International Relations, hearing on European Common Foreign, Security and Defense Policies-Implications for the United States and the Atlantic Alliance, 10 a.m., 2172 Rayburn.

Committee on Resources, to consider the following: S. 613, Indian Tribal Economic Development and Contract Encouragement Act of 1999; H.R. 701, Conservation and Reinvestment Act of 1999; H.R. 1680, to provide for the conveyance of Forest Service property in Kern County, California, in exchange for county lands suitable for inclusion in Sequoia National Forest; H.R. 1749, to designate Wilson Creek in Avery and Caldwell Counties, North Carolina, as a component of the National Wild and Scenic Rivers System; 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; H.R. 2278, to require the National Park Service to conduct a feasibility study regarding options for the protection and expanded visitor enjoyment of nationally significant natural and cultural resources at Fort Hunter Liggett, California; H.R. 2484, to provide that land which is owned by the Lower Sioux Indian Community in the State of Minnesota but which is not held in trust by the United States for the Community may be leased or transferred by the Community without further approval by the United States; 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 the Conservation and Reinvestment Act of 1999, 11 a.m., 1324 Longworth.

Subcommittee on Fisheries Conservation, Wildlife and Oceans, oversight hearing on the role of the NOAA's fleet in the recovery of data from marine airline crash sites in the Atlantic Ocean, 9:30 a.m., 1334 Longworth.

Committee on Transportation and Infrastructure, to consider the following: General Services Administration's Fiscal Year 2000 leasing program; 2 11 (b) resolutions; H.R. 809, Federal Protective Service Reform Act of 1999; H.R. 728, Small Watershed Rehabilitation Amendments of 1999; the Middle Deep Red Run Creek Small Watershed Project; H.R. 1775, Estuary Habitat Restoration Partnership Act of 1999; H.R. 3039, Chesapeake Bay Restoration Act of 1999; Corps of Engineers Survey Resolutions; and other pending business, 10:30 a.m., 2167 Rayburn.

Committee on Ways and Means, hearing on corporate tax shelters, 11 a.m., 1100 Longworth.

Next Meeting of the SENATE

9:30 a.m., Wednesday, November 10

Senate Chamber

Program for Wednesday: Senate will continue consideration of S. 625, Bankruptcy Reform, with a vote on Amendment No. 2771 regarding drugs to occur thereon. Also, Senate will consider the nominations of Carol Moseley-Braun, of Illinois, to be Ambassador to New Zealand, and to serve concurrently and without additional compensation as Ambassador to Samoa, and Linda Joan Morgan, of Maryland, to be a Member of the Surface Transportation Board, with votes to occur thereon.

Next Meeting of the HOUSE OF REPRESENTATIVES

10 a.m., Wednesday, November 10

House Chamber

Program for Wednesday: Consideration of H.R. 3073, Fathers Count Act of 1999 (Structured Rule, 90 minutes of general debate);

Consideration of 7 Suspensions:

(1) H. Res. 41, Honoring American Military Women for Their Service in World War II ;

(2) H.R. 1869, Stalking Prevention and Victim Protection Act;

(3) H.R. 2336, United States Marshals Service Improvement Act;

(4) H.R. 2442, Wartime Violation of Italian American Civil Liberties Act;

(5) H. Con. Res. 122, Recognition of the U.S. Border Patrol's 75 Years of Service;

(6) H.R. 3234, To Exempt Certain Reports from Automatic Elimination and Sunset Provisions; and

(7) H.R. 2454, Arctic Tundra Habitat Emergency Conservation Act.

Extensions of Remarks, as inserted in this issue

HOUSE

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