

H.R. 3159: Ms. BROWN of Florida.  
 H.J. Res. 70: Mr. TEJEDA, Mr. BERMAN, and Mr. SANDERS.  
 H. Con. Res. 26: Ms. MOLINARI.  
 H. Con. Res. 47: Mr. HUNTER.  
 H. Con. Res. 152: Mr. NETHERCUTT, Mr. ORTIZ, Mr. MCHUGH, Mr. BONILLA, and Mr. STUPAK.  
 H. Con. Res. 155: Mr. PAYNE of New Jersey, Mrs. CLAYTON, and Mr. GILMAN.  
 H. Res. 123: Mr. RAHALL, Mr. PACKARD, and Mr. DORNAN.  
 H. Res. 285: Mr. BONIOR.  
 H. Res. 359: Mr. FRAZER, Ms. MOLINARI, Mr. ANDREWS, Mrs. KENNELLY, Mrs. MEEK of Florida, Mr. VENTO, and Mr. MCINNIS.  
 H. Res. 381: Mr. DEFazio, Mr. KENNEDY of Rhode Island, Mr. UNDERWOOD, Mrs. SEASTRAND, Mr. HORN, and Mr. STOCKMAN.  
 H. Res. 385: Mrs. MORELLA, Mr. RANGEL, and Mr. ORTON.

### FRIDAY, MARCH 29, 1996 (38)

#### 38.1 DESIGNATION OF SPEAKER PRO TEMPORE

The House was called to order by the Speaker pro tempore, Mr. GUNDERSON, who laid before the House the following communication:

WASHINGTON, DC,  
 March 29, 1996.

I hereby designate the Honorable STEVE GUNDERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,  
 Speaker of the House of Representatives.

#### 38.2 APPROVAL OF THE JOURNAL

The SPEAKER pro tempore, Mr. GUNDERSON, announced he had examined and approved the Journal of the proceedings of Thursday, March 28, 1996.

Mr. GREEN, pursuant to clause 1, rule I, objected to the Chair's approval of the Journal.

The question being put, *viva voce*, Will the House agree to the Chair's approval of said Journal?

The SPEAKER pro tempore, Mr. GUNDERSON, announced that the yeas had it.

Mr. GREEN objected to the vote on the ground that a quorum was not present and not voting.

The SPEAKER pro tempore, Mr. GUNDERSON, pursuant to clause 5, rule I, announced that the vote would be postponed until later today.

The point of no quorum was considered as withdrawn.

#### 38.3 COMMUNICATIONS

Executive and other communications, pursuant to clause 2, rule XXIV, were referred as follows:

2316. A letter from the Director, Test, Systems Engineering and Evaluations, Department of Defense, transmitting a letter notifying Congress of the intent to obligate funds for fiscal year 1996 Foreign Comparative Testing [FCT] Program, pursuant to 10 U.S.C. 2350a(g); to the Committee on National Security.

2317. A letter from the Assistant Secretary for Legislative Affairs and Public Liaison, Department of the Treasury, transmitting a copy of the 11th monthly report as required by the Mexican Debt Disclosure Act, pursuant to Public Law 104-6, section 404(a) (109 Stat. 90); to the Committee on Banking and Financial Services.

2318. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Turkey (Transmittal No. 16-96), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

2319. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-238, "Retirement Reform Temporary Amendment Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2320. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-233, "Insurance Demutualization Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2321. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-238, "Insurance Redomestication Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2322. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-237, "Safe Streets Anti-Prostitution Amendment Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2323. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-236, "Human Remains Decisions Amendment Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2324. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-232, "Anatomical Gift Amendment Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2325. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-231, "Learner's Permit Amendment Act 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2326. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-230, "Insurance Industry Material Transactions Disclosure Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2327. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-229, "Merit Personnel Early Out Retirement Revisions Amendment Act of 1996," pursuant to D.C. Code, Section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2328. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-228, "Insurance Confidentiality of Information Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2329. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-227, "Henry J. Daly Building Designation Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2330. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-235, "Insurance State of Entry Act of Act of 1996," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

2331. A letter from the Secretary of Veterans Affairs transmitting a report of activi-

ties under the Freedom of Information Act for the calendar year 1995, pursuant to 5 U.S.C. 552(e); to the Committee on Government Reform and Oversight.

2332. A letter from the Chairman, Federal Election Commission, transmitting proposed FEC form 5, the form to be used by persons other than political committees to report independent expenditures, pursuant to 2 U.S.C. 438(d); to the Committee on House Oversight.

2333. A letter from the Administrator, Federal Aviation Administration, transmitting a copy of the updated aviation system capital investment plan [CIP], pursuant to 49 U.S.C. app. 2203(b)(1); to the Committee on Transportation and Infrastructure.

2334. A letter from the Chairman, Federal Election Commission, transmitting the Commission's fiscal year 1997 budget request justification and its fiscal year 1996 supplemental appropriation request, pursuant to 2 U.S.C. 437d(d)(1); jointly, to the Committees on Appropriations and House Oversight.

#### 38.4 MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate 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. 1561), an act to consolidate the foreign affairs agencies of the United States; to authorize appropriations for the Department of State and related agencies for fiscal years 1996 and 1997; to responsibly reduce the authorizations of appropriations for U.S. foreign assistance programs for fiscal years 1996 and 1997, and for other purposes.

#### 38.5 ORDER OF BUSINESS—

##### CONSIDERATION OF H.J. RES. 170

On motion of Mr. LIVINGSTON, by unanimous consent,

*Ordered*, That the Committee on Appropriations be discharged from further consideration of the joint resolution (H.J. Res. 170) making further continuing appropriations for the fiscal year 1996, and for other purposes, when said joint resolution is called up; and

*Ordered further*, That it be in order at any time to consider the joint resolution in the House; that the joint resolution be debatable for not to exceed one hour, to be equally divided and controlled by Mr. Livingston and Mr. Obey; that all points of order against the joint resolution and against its consideration be waived; and that the previous question be considered as ordered on the joint resolution to final passage without intervening motion, except one motion to recommit, with or without instructions.

#### 38.6 WAIVING POINTS OF ORDER

##### AGAINST THE CONFERENCE REPORT ON H.R. 956

Mr. LINDER, by direction of the Committee on Rules, called up the following resolution (H. Res. 394):

*Resolved*, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 956) to establish legal standards and procedures for product liability litigation, and for other purposes. All points of order against the conference report and against its consideration are waived.

When said resolution was considered. After debate,

Mr. LINDER moved the previous question on the resolution to its adoption or rejection.

The question being put, viva voce, Will the House now order the previous question?

The SPEAKER pro tempore, Mr. GUNDERSON, announced that the yeas had it.

Mr. FROST objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present, The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas ..... 237  
Nays ..... 173

¶38.7

[Roll No. 108]  
YEAS—237

Allard	Ewing	Longley
Archer	Fawell	Lucas
Armey	Flanagan	Manzullo
Bachus	Foley	Martini
Baker (CA)	Forbes	McCollum
Baker (LA)	Fox	McCrery
Ballenger	Franks (CT)	McDade
Barr	Franks (NJ)	McHugh
Barrett (NE)	Frelinghuysen	McInnis
Bartlett	Frisinger	McIntosh
Barton	Funderburk	McKeon
Bass	Galleghy	Metcalf
Bateman	Ganske	Meyers
Bereuter	Gekas	Mica
Bilbray	Geren	Miller (FL)
Bilirakis	Gilchrist	Molinari
Billey	Gillmor	Montgomery
Blute	Gilman	Moorhead
Boehlert	Goodlatte	Morella
Boehner	Gordon	Myers
Bonilla	Goss	Myrick
Bono	Graham	Nethercutt
Boucher	Greenwood	Neumann
Browder	Gunderson	Ney
Brownback	Gutknecht	Norwood
Bryant (TN)	Hall (TX)	Nussle
Bunn	Hancock	Oxley
Bunning	Hansen	Packard
Burr	Hastert	Parker
Burton	Hastings (WA)	Paxon
Buyer	Hayworth	Petri
Callahan	Hefley	Pombo
Calvert	Heineman	Porter
Camp	Herger	Portman
Campbell	Hilleary	Pryce
Canady	Hobson	Quillen
Castle	Hoekstra	Quinn
Chabot	Hoke	Radanovich
Chambliss	Holden	Ramstad
Chenoweth	Horn	Regula
Christensen	Hostettler	Riggs
Chrysler	Houghton	Roberts
Clinger	Hunter	Roemer
Coble	Hutchinson	Rogers
Coburn	Hyde	Rohrabacher
Collins (GA)	Inglis	Ros-Lehtinen
Combest	Istook	Roth
Condit	Johnson (CT)	Roukema
Cooley	Johnson, Sam	Royce
Cox	Jones	Salmon
Cramer	Kasich	Sanford
Crane	Kelly	Saxton
Crapo	Kim	Scarborough
Creameans	King	Schaefer
Cubin	Kingston	Schiff
Cunningham	Klug	Seastrand
Davis	Knollenberg	Sensenbrenner
Deal	Kolbe	Shadegg
DeLay	LaHood	Shaw
Diaz-Balart	Largent	Shays
Dickey	Latham	Shuster
Doolittle	LaTourette	Skeen
Dornan	Laughlin	Smith (MI)
Dreier	Lazio	Smith (NJ)
Dunn	Leach	Smith (WA)
Ehlers	Lewis (CA)	Solomon
Ehrlich	Lewis (KY)	Souder
Emerson	Lightfoot	Spence
English	Linder	Stearns
Ensign	Livingston	Stockman
Everett	LoBiondo	Stump

Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Costello
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Durbin
Edwards
Engel
Evans
Farr
Fattah
Fazio
Fields (LA)
Flner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gibbons
Gonzalez

Bryant (TX)
Collins (IL)
Coyne
de la Garza
Eshoo
Fields (TX)
Ford

So the previous question on the resolution was ordered.

The question being put, viva voce, Will the House agree to said resolution?

The SPEAKER pro tempore, Mr. GUNDERSON, announced that the yeas had it.

So the resolution was agreed to. A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

¶38.8 UNFINISHED BUSINESS—APPROVAL OF THE JOURNAL

The SPEAKER pro tempore, Mr. GUNDERSON, pursuant to clause 5,

NAYS—173

Green
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klecza
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowe
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Miller (CA)
Minge
Mink
Moakley
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey

NOT VOTING—21

Fowler
Gephardt
Goodling
Gutierrez
Hayes
McNulty
Serrano

Weller
White
Whitfield
Wicker
Wolf
Young (FL)
Zeliff
Zimmer

Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Trafficant
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Wise
Woolsey
Wynn
Yates

rule I, announced the unfinished business to be the question on agreeing to the Chair's approval of the Journal of Thursday, March 28, 1996.

The question being put, viva voce, Will the House agree to the Chair's approval of said Journal?

The SPEAKER pro tempore, Mr. GUNDERSON, announced that the yeas had it.

Mr. VOLKMER demanded a recorded vote on agreeing to the Chair's approval of the Journal, which demand was supported by one-fifth of a quorum, so a recorded vote was ordered.

The vote was taken by electronic device.

It was decided in the affirmative ..... { Yeas ..... 323  
Nays ..... 83  
Answered present 1

¶38.9

[Roll No. 109]  
AYES—323

Ackerman	Coyne	Hastings (WA)
Allard	Cramer	Hayworth
Andrews	Crane	Hefner
Archer	Crapo	Heineman
Armey	Creameans	Herger
Bachus	Cubin	Hilleary
Baesler	Cunningham	Hobson
Baker (CA)	Danner	Hoekstra
Baker (LA)	Davis	Hoke
Ballenger	Deal	Holden
Barcia	DeLauro	Horn
Barr	DeLay	Hostettler
Barrett (NE)	Dellums	Houghton
Barrett (WI)	Diaz-Balart	Hoyer
Bartlett	Dickey	Hunter
Barton	Dicks	Hutchinson
Bass	Dixon	Hyde
Bateman	Dooley	Inglis
Beilenson	Doolittle	Istook
Bentsen	Dornan	Jackson (IL)
Bereuter	Doyle	Jackson-Lee (TX)
Berman	Dreier	Jefferson
Bevill	Duncan	Johnson (CT)
Bilbray	Dunn	Johnson (SD)
Bilirakis	Ehlers	Johnson, Sam
Bishop	Ehrlich	Jones
Bliley	Emerson	Kanjorski
Blute	English	Kaptur
Boehlert	Ensign	Kasich
Boehner	Evans	Kelly
Bonilla	Everett	Kennedy (MA)
Bono	Ewing	Kennelly
Boucher	Farr	Kim
Brewster	Fattah	King
Browder	Fawell	Kingston
Brown (OH)	Fields (LA)	Klecza
Brownback	Flake	Klink
Bryant (TN)	Flanagan	Klug
Bunn	Foglietta	Knollenberg
Bunning	Foley	LaHood
Burr	Forbes	Lantos
Burton	Fox	Largent
Buyer	Frank (MA)	Latham
Callahan	Franks (CT)	LaTourette
Calvert	Franks (NJ)	Laughlin
Camp	Frelinghuysen	Lazio
Campbell	Frisa	Leach
Canady	Funderburk	Lewis (CA)
Cardin	Furse	Lewis (KY)
Castle	Galleghy	Lightfoot
Chabot	Ganske	Lincoln
Chambliss	Gejdenson	Linder
Chapman	Gekas	Lipinski
Chenoweth	Geren	Livingston
Christensen	Gilchrist	LoBiondo
Chrysler	Gilman	Lofgren
Clinger	Gonzalez	Longley
Coble	Goodlatte	Lowe
Coburn	Gordon	Lucas
Collins (GA)	Goss	Luther
Combest	Graham	Maloney
Condit	Greenwood	Manton
Conyers	Gunderson	Manzullo
Cooley	Hall (TX)	Martinez
Costello	Hamilton	Martini
Cox	Hancock	Mascara
	Hansen	McCarthy
	Hastert	

McCollum	Portman	Smith (WA)
McCrery	Poshard	Solomon
McDade	Pryce	Souder
McHugh	Quillen	Spence
McInnis	Quinn	Stearns
McIntosh	Radanovich	Stenholm
McKeon	Rahall	Stockman
McKinney	Ramstad	Stump
Meehan	Rangel	Stupak
Metcalf	Reed	Talent
Meyers	Regula	Tanner
Mica	Riggs	Tate
Miller (FL)	Rivers	Tauzin
Minge	Roberts	Taylor (NC)
Moakley	Roemer	Tejeda
Molinari	Rogers	Thomas
Mollohan	Rohrabacher	Thornberry
Montgomery	Ros-Lehtinen	Thornton
Moorhead	Rose	Tiahrt
Moran	Roth	Torricelli
Morella	Roukema	Traficant
Murtha	Roybal-Allard	Upton
Myers	Royce	Vucanovich
Myrick	Salmon	Waldholtz
Neal	Sanford	Walker
Nethercutt	Saxton	Walsh
Neumann	Scarborough	Wamp
Ney	Schaefer	Watts (OK)
Norwood	Schiff	Waxman
Nussle	Schumer	Weldon (FL)
Ortiz	Sensenbrenner	Weller
Oxley	Shadegg	White
Packard	Shaw	Whitfield
Parker	Shays	Wicker
Paxon	Shuster	Wilson
Payne (VA)	Sisisky	Wolf
Peterson (FL)	Skeen	Woolsey
Petri	Skelton	Wynn
Pomeroy	Smith (MI)	Young (FL)
Porter	Smith (NJ)	Zeliff

NOES—83

Abercrombie	Hilliard	Pickett
Baldacci	Hinchev	Pombo
Becerra	Jacobs	Richardson
Bonior	Johnson, E. B.	Rush
Borski	Johnston	Sabo
Brown (CA)	Kennedy (RI)	Sawyer
Brown (FL)	Kildee	Schroeder
Clay	LaFalce	Scott
Clayton	Levin	Skaggs
Coleman	Lewis (GA)	Slaughter
Collins (MI)	Markey	Spratt
DeFazio	Matsui	Stark
Deutsch	McDermott	Studds
Dingell	McHale	Taylor (MS)
Durbin	Meek	Thompson
Edwards	Menendez	Thurman
Engel	Miller (CA)	Torkildsen
Fazio	Mink	Towns
Filner	Nadler	Vento
Frost	Oberstar	Visclosky
Gephardt	Obey	Volkmer
Gibbons	Olver	Ward
Gillmor	Orton	Waters
Green	Owens	Watt (NC)
Gutknecht	Pallone	Wise
Hall (OH)	Pastor	Yates
Hastings (FL)	Payne (NJ)	Zimmer
Hefley	Peterson (MN)	

ANSWERED "PRESENT"—1

Harman

NOT VOTING—24

Bryant (TX)	Goodling	Serrano
Collins (IL)	Gutierrez	Smith (TX)
de la Garza	Hayes	Stokes
Doggett	Kolbe	Torres
Eshoo	McNulty	Velazquez
Fields (TX)	Pelosi	Weldon (PA)
Ford	Sanders	Williams
Fowler	Seastrand	Young (AK)

So the Journal was approved.

38.10 PROVIDING FOR THE CONSIDERATION OF H.J. RES. 159

Mr. GOSS, by direction of the Committee on Rules, reported (Rept. No. 104-513) the resolution (H. Res. 395) providing for the consideration of the joint resolution (H.J. Res. 159) proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes.

When said resolution and report were referred to the House Calendar and ordered printed.

38.11 PROVIDING FOR THE CONSIDERATION OF H.R. 842

Mr. GOSS, by direction of the Committee on Rules, reported (Rept. No. 104-514) the resolution (H. Res. 396) providing for the consideration of the bill (H.R. 842) to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Funds, and the Harbor Maintenance Trust Fund.

When said resolution and report were referred to the House Calendar and ordered printed.

38.12 PRODUCT LIABILITY REFORM

Mr. HYDE, pursuant to House Resolution 394, called up the following conference report (Rept. No. 104-481):

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 956), to establish legal standards and procedures for product liability litigation, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Common Sense Product Liability Legal Reform Act of 1996".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings and purposes.
- TITLE I—PRODUCT LIABILITY REFORM
- Sec. 101. Definitions.
- Sec. 102. Applicability; preemption.
- Sec. 103. Liability rules applicable to product sellers, renters, and lessors.
- Sec. 104. Defense based on claimant's use of intoxicating alcohol or drugs.
- Sec. 105. Misuse or alteration.
- Sec. 106. Uniform time limitations on liability.
- Sec. 107. Alternative dispute resolution procedures.
- Sec. 108. Uniform standards for award of punitive damages.
- Sec. 109. Liability for certain claims relating to death.
- Sec. 110. Several liability for noneconomic loss.
- Sec. 111. Workers' compensation subrogation.

TITLE II—BIOMATERIALS ACCESS ASSURANCE

- Sec. 201. Short title.
- Sec. 202. Findings.
- Sec. 203. Definitions.
- Sec. 204. General requirements; applicability; preemption.
- Sec. 205. Liability of biomaterials suppliers.
- Sec. 206. Procedures for dismissal of civil actions against biomaterials suppliers.

TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE

- Sec. 301. Effect of court of appeals decisions.
- Sec. 302. Federal cause of action precluded.
- Sec. 303. Effective date.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) our Nation is overly litigious, the civil justice system is overcrowded, sluggish, and excessively costly and the costs of lawsuits, both direct and indirect, are inflicting serious and unnecessary injury on the national economy;

(2) excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability have a direct and undesirable effect on interstate commerce by increasing the cost and decreasing the availability of goods and services;

(3) the rules of law governing product liability actions, damage awards, and allocations of liability have evolved inconsistently within and among the States, resulting in a complex, contradictory, and uncertain regime that is inequitable to both plaintiffs and defendants and unduly burdens interstate commerce;

(4) as a result of excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability, consumers have been adversely affected through the withdrawal of products, producers, services, and service providers from the marketplace, and from excessive liability costs passed on to them through higher prices;

(5) excessive, unpredictable, and often arbitrary damage awards and unfair allocations of liability jeopardize the financial well-being of many individuals as well as entire industries, particularly the Nation's small businesses and adversely affects government and taxpayers;

(6) the excessive costs of the civil justice system undermine the ability of American companies to compete internationally, and serve to decrease the number of jobs and the amount of productive capital in the national economy;

(7) the unpredictability of damage awards is inequitable to both plaintiffs and defendants and has added considerably to the high cost of liability insurance, making it difficult for producers, consumers, volunteers, and nonprofit organizations to protect themselves from liability with any degree of confidence and at a reasonable cost;

(8) because of the national scope of the problems created by the defects in the civil justice system, it is not possible for the States to enact laws that fully and effectively respond to those problems;

(9) it is the constitutional role of the national government to remove barriers to interstate commerce and to protect due process rights; and

(10) there is a need to restore rationality, certainty, and fairness to the civil justice system in order to protect against excessive, arbitrary, and uncertain damage awards and to reduce the volume, costs, and delay of litigation.

(b) PURPOSES.—Based upon the powers contained in Article I, Section 8, Clause 3 and the Fourteenth Amendment of the United States Constitution, the purposes of this Act are to promote the free flow of goods and services and to lessen burdens on interstate commerce and to uphold constitutionally protected due process rights by—

(1) establishing certain uniform legal principles of product liability which provide a fair balance among the interests of product users, manufacturers, and product sellers;

(2) placing reasonable limits on damages over and above the actual damages suffered by a claimant;

(3) ensuring the fair allocation of liability in civil actions;

(4) reducing the unacceptable costs and delays of our civil justice system caused by excessive litigation which harm both plaintiffs and defendants; and

(5) establishing greater fairness, rationality, and predictability in the civil justice system.

**TITLE I—PRODUCT LIABILITY REFORM**  
**SEC. 101. DEFINITIONS.**

For purposes of this title—

(1) **ACTUAL MALICE.**—The term “actual malice” means specific intent to cause serious physical injury, illness, disease, death, or damage to property.

(2) **CLAIMANT.**—The term “claimant” means any person who brings an action covered by this title and any person on whose behalf such an action is brought. If such an action is brought through or on behalf of an estate, the term includes the claimant’s decedent. If such an action is brought through or on behalf of a minor or incompetent, the term includes the claimant’s legal guardian.

(3) **CLAIMANT’S BENEFITS.**—The term “claimant’s benefits” means the amount paid to an employee as workers’ compensation benefits.

(4) **CLEAR AND CONVINCING EVIDENCE.**—The term “clear and convincing evidence” is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established. The level of proof required to satisfy such standard is more than that required under preponderance of the evidence, but less than that required for proof beyond a reasonable doubt.

(5) **COMMERCIAL LOSS.**—The term “commercial loss” means any loss or damage solely to a product itself, loss relating to a dispute over its value, or consequential economic loss, the recovery of which is governed by the Uniform Commercial Code or analogous State commercial or contract law.

(6) **COMPENSATORY DAMAGES.**—The term “compensatory damages” means damages awarded for economic and non-economic loss.

(7) **DURABLE GOOD.**—The term “durable good” means any product, or any component of any such product, which has a normal life expectancy of 3 or more years, or is of a character subject to allowance for depreciation under the Internal Revenue Code of 1986 and which is—

(A) used in a trade or business;

(B) held for the production of income; or

(C) sold or donated to a governmental or private entity for the production of goods, training, demonstration, or any other similar purpose.

(8) **ECONOMIC LOSS.**—The term “economic loss” means any pecuniary loss resulting from harm (including the loss of earnings or other benefits related to employment, medical expense loss, replacement services loss, loss due to death, burial costs, and loss of business or employment opportunities) to the extent recovery for such loss is allowed under applicable State law.

(9) **HARM.**—The term “harm” means any physical injury, illness, disease, or death or damage to property caused by a product. The term does not include commercial loss.

(10) **INSURER.**—The term “insurer” means the employer of a claimant if the employer is self-insured or if the employer is not self-insured, the workers’ compensation insurer of the employer.

(11) **MANUFACTURER.**—The term “manufacturer” means—

(A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who (i) designs or formulates the product (or component part of the product), or (ii) has engaged another person to design or formulate the product (or component part of the product);

(B) a product seller, but only with respect to those aspects of a product (or component part of a product) which are created or af-

fectured when, before placing the product in the stream of commerce, the product seller produces, creates, makes or constructs and designs, or formulates, or has engaged another person to design or formulate, an aspect of the product (or component part of the product) made by another person; or

(C) any product seller not described in subparagraph (B) which holds itself out as a manufacturer to the user of the product.

(12) **NONECONOMIC LOSS.**—The term “noneconomic loss” means subjective, nonmonetary loss resulting from harm, including pain, suffering, inconvenience, mental suffering, emotional distress, loss of society and companionship, loss of consortium, injury to reputation, and humiliation.

(13) **PERSON.**—The term “person” means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity).

(14) **PRODUCT.**—

(A) **IN GENERAL.**—The term “product” means any object, substance, mixture, or raw material in a gaseous, liquid, or solid state which—

(i) is capable of delivery itself or as an assembled whole, in a mixed or combined state, or as a component part or ingredient;

(ii) is produced for introduction into trade or commerce;

(iii) has intrinsic economic value; and

(iv) is intended for sale or lease to persons for commercial or personal use.

(B) **EXCLUSION.**—The term does not include—

(i) tissue, organs, blood, and blood products used for therapeutic or medical purposes, except to the extent that such tissue, organs, blood, and blood products (or the provision thereof) are subject, under applicable State law, to a standard of liability other than negligence; or

(ii) electricity, water delivered by a utility, natural gas, or steam except to the extent that electricity, water delivered by a utility, natural gas, or steam, is subject, under applicable State law, to a standard of liability other than negligence.

(15) **PRODUCT LIABILITY ACTION.**—The term “product liability action” means a civil action brought on any theory for harm caused by a product.

(16) **PRODUCT SELLER.**—

(A) **IN GENERAL.**—The term “product seller” means a person who in the course of a business conducted for that purpose—

(i) sells, distributes, rents, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce; or

(ii) installs, repairs, refurbishes, reconditions, or maintains the harm-causing aspect of the product.

(B) **EXCLUSION.**—The term “product seller” does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who—

(I) acts in only a financial capacity with respect to the sale of a product; or

(II) leases a product under a lease arrangement in which the lessor does not initially select the leased product and does not during the lease term ordinarily control the daily operations and maintenance of the product.

(17) **PUNITIVE DAMAGES.**—The term “punitive damages” means damages awarded against any person or entity to punish or deter such person or entity, or others, from engaging in similar behavior in the future.

(18) **STATE.**—The term “State” means any State of the United States, the District of Columbia, Commonwealth of Puerto Rico,

the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States or any political subdivision of any of the foregoing.

**SEC. 102. APPLICABILITY; PREEMPTION.**

(a) **PREEMPTION.**—

(1) **IN GENERAL.**—This Act governs any product liability action brought in any State or Federal court on any theory for harm caused by a product.

(2) **ACTIONS EXCLUDED.**—A civil action brought for commercial loss shall be governed only by applicable commercial or contract law.

(b) **RELATIONSHIP TO STATE LAW.**—This title supersedes State law only to the extent that State law applies to an issue covered by this title. Any issue that is not governed by this title, including any standard of liability applicable to a manufacturer, shall be governed by otherwise applicable State or Federal law.

(c) **EFFECT ON OTHER LAW.**—Nothing in this Act shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any law;

(2) supersede or alter any Federal law;

(3) waive or affect any defense of sovereign immunity asserted by the United States;

(4) affect the applicability of any provision of chapter 97 of title 28, United States Code;

(5) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation;

(6) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum; or

(7) supersede or modify any statutory or common law, including any law providing for an action to abate a nuisance, that authorizes a person to institute an action for civil damages or civil penalties, cleanup costs, injunctions, restitution, cost recovery, punitive damages, or any other form of relief for remediation of the environment (as defined in section 101(8) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(8))).

**SEC. 103. LIABILITY RULES APPLICABLE TO PRODUCT SELLERS, RENTERS, AND LESSORS.**

(a) **GENERAL RULE.**—

(1) **IN GENERAL.**—In any product liability action, a product seller other than a manufacturer shall be liable to a claimant only if the claimant establishes—

(A) that—

(i) the product that allegedly caused the harm that is the subject of the complaint was sold, rented, or leased by the product seller;

(ii) the product seller failed to exercise reasonable care with respect to the product; and

(iii) the failure to exercise reasonable care was a proximate cause of harm to the claimant;

(B) that—

(i) the product seller made an express warranty applicable to the product that allegedly caused the harm that is the subject of the complaint, independent of any express warranty made by a manufacturer as to the same product;

(ii) the product failed to conform to the warranty; and

(iii) the failure of the product to conform to the warranty caused harm to the claimant; or

(C) that—

(i) the product seller engaged in intentional wrongdoing, as determined under applicable State law; and

(ii) such intentional wrongdoing was a proximate cause of the harm that is the subject of the complaint.

(2) REASONABLE OPPORTUNITY FOR INSPECTION.—For purposes of paragraph (1)(A)(ii), a product seller shall not be considered to have failed to exercise reasonable care with respect to a product based upon an alleged failure to inspect the product—

(A) if the failure occurred because there was no reasonable opportunity to inspect the product; or

(B) if the inspection, in the exercise of reasonable care, would not have revealed the aspect of the product which allegedly caused the claimant's harm.

(b) SPECIAL RULE.—

(1) IN GENERAL.—A product seller shall be deemed to be liable as a manufacturer of a product for harm caused by the product if—

(A) the manufacturer is not subject to service of process under the laws of any State in which the action may be brought; or

(B) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

(2) STATUTE OF LIMITATIONS.—For purposes of this subsection only, the statute of limitations applicable to claims asserting liability of a product seller as a manufacturer shall be tolled from the date of the filing of a complaint against the manufacturer to the date that judgment is entered against the manufacturer.

(c) RENTED OR LEASED PRODUCTS.—

(1) Notwithstanding any other provision of law, any person engaged in the business of renting or leasing a product (other than a person excluded from the definition of product seller under section 101(16)(B)) shall be subject to liability in a product liability action under subsection (a), but any person engaged in the business of renting or leasing a product shall not be liable to a claimant for the tortious act of another solely by reason of ownership of such product.

(2) For purposes of paragraph (1), and for determining the applicability of this title to any person subject to paragraph (1), the term "product liability action" means a civil action brought on any theory for harm caused by a product or product use.

(d) ACTIONS FOR NEGLIGENT ENTRUSTMENT.—A civil action for negligent entrustment shall not be subject to the provisions of this section, but shall be subject to any applicable State law.

#### SEC. 104. DEFENSE BASED ON CLAIMANT'S USE OF INTOXICATING ALCOHOL OR DRUGS.

(a) GENERAL RULE.—In any product liability action, it shall be a complete defense to such action if—

(1) the claimant was intoxicated or was under the influence of intoxicating alcohol or any drug when the accident or other event which resulted in such claimant's harm occurred; and

(2) the claimant, as a result of the influence of the alcohol or drug, was more than 50 percent responsible for such accident or other event.

(b) CONSTRUCTION.—For purposes of subsection (a)—

(1) the determination of whether a person was intoxicated or was under the influence of intoxicating alcohol or any drug shall be made pursuant to applicable State law; and

(2) the term "drug" means any controlled substance as defined in the Controlled Substances Act (21 U.S.C. 802(6)) that was not legally prescribed for use by the claimant or that was taken by the claimant other than in accordance with the terms of a lawfully issued prescription.

#### SEC. 105. MISUSE OR ALTERATION.

(a) GENERAL RULE.—

(1) IN GENERAL.—In a product liability action, the damages for which a defendant is

otherwise liable under Federal or State law shall be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of a product by any person if the defendant establishes that such percentage of the claimant's harm was proximately caused by a use or alteration of a product—

(A) in violation of, or contrary to, a defendant's express warnings or instructions if the warnings or instructions are adequate as determined pursuant to applicable State law; or

(B) involving a risk of harm which was known or should have been known by the ordinary person who uses or consumes the product with the knowledge common to the class of persons who used or would be reasonably anticipated to use the product.

(2) USE INTENDED BY A MANUFACTURER IS NOT MISUSE OR ALTERATION.—For the purposes of this Act, a use of a product that is intended by the manufacturer of the product does not constitute a misuse or alteration of the product.

(b) WORKPLACE INJURY.—Notwithstanding subsection (a), and except as otherwise provided in section 111, the damages for which a defendant is otherwise liable under State law shall not be reduced by the percentage of responsibility for the claimant's harm attributable to misuse or alteration of the product by the claimant's employer or any co-employee who is immune from suit by the claimant pursuant to the State law applicable to workplace injuries.

#### SEC. 106. UNIFORM TIME LIMITATIONS ON LIABILITY.

(a) STATUTE OF LIMITATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (b), a product liability action may be filed not later than 2 years after the date on which the claimant discovered or, in the exercise of reasonable care, should have discovered—

(A) the harm that is the subject of the action; and

(B) the cause of the harm.

(2) EXCEPTION.—A person with a legal disability (as determined under applicable law) may file a product liability action not later than 2 years after the date on which the person ceases to have the legal disability.

(b) STATUTE OF REPOSE.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), no product liability action that is subject to this Act concerning a product, that is a durable good, alleged to have caused harm (other than toxic harm) may be filed after the 15-year period beginning at the time of delivery of the product to the first purchaser or lessee.

(2) STATE LAW.—Notwithstanding paragraph (1), if pursuant to an applicable State law, an action described in such paragraph is required to be filed during a period that is shorter than the 15-year period specified in such paragraph, the State law shall apply with respect to such period.

(3) EXCEPTIONS.—

(A) A motor vehicle, vessel, aircraft, or train, that is used primarily to transport passengers for hire, shall not be subject to this subsection.

(B) Paragraph (1) does not bar a product liability action against a defendant who made an express warranty in writing as to the safety or life expectancy of the specific product involved which was longer than 15 years, but it will apply at the expiration of that warranty.

(C) Paragraph (1) does not affect the limitations period established by the General Aviation Revitalization Act of 1994 (49 U.S.C. 40101 note).

(c) TRANSITIONAL PROVISION RELATING TO EXTENSION OF PERIOD FOR BRINGING CERTAIN ACTIONS.—If any provision of subsection (a)

or (b) shortens the period during which a product liability action could be otherwise brought pursuant to another provision of law, the claimant may, notwithstanding subsections (a) and (b), bring the product liability action not later than 1 year after the date of enactment of this Act.

#### SEC. 107. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.

(a) SERVICE OF OFFER.—A claimant or a defendant in a product liability action may, not later than 60 days after the service of—

(1) the initial complaint; or

(2) the applicable deadline for a responsive pleading;

whichever is later, serve upon an adverse party an offer to proceed pursuant to any voluntary, nonbinding alternative dispute resolution procedure established or recognized under the law of the State in which the product liability action is brought or under the rules of the court in which such action is maintained.

(b) WRITTEN NOTICE OF ACCEPTANCE OR REJECTION.—Except as provided in subsection (c), not later than 10 days after the service of an offer to proceed under subsection (a), an offeree shall file a written notice of acceptance or rejection of the offer.

(c) EXTENSION.—The court may, upon motion by an offeree made prior to the expiration of the 10-day period specified in subsection (b), extend the period for filing a written notice under such subsection for a period of not more than 60 days after the date of expiration of the period specified in subsection (b). Discovery may be permitted during such period.

#### SEC. 108. UNIFORM STANDARDS FOR AWARD OF PUNITIVE DAMAGES.

(a) GENERAL RULE.—Punitive damages may, to the extent permitted by applicable State law, be awarded against a defendant if the claimant establishes by clear and convincing evidence that conduct carried out by the defendant with a conscious, flagrant indifference to the rights or safety of others was the proximate cause of the harm that is the subject of the action in any product liability action.

(b) LIMITATION ON AMOUNT.—

(1) IN GENERAL.—The amount of punitive damages that may be awarded in an action described in subsection (a) may not exceed the greater of—

(A) 2 times the sum of the amount awarded to the claimant for economic loss and non-economic loss; or

(B) \$250,000.

(2) SPECIAL RULE.—Notwithstanding paragraph (1), in any action described in subsection (a) against an individual whose net worth does not exceed \$500,000 or against an owner of an unincorporated business, or any partnership, corporation, association, unit of local government, or organization which has fewer than 25 full-time employees, the punitive damages shall not exceed the lesser of—

(A) 2 times the sum of the amount awarded to the claimant for economic loss and non-economic loss; or

(B) \$250,000.

For the purpose of determining the applicability of this paragraph to a corporation, the number of employees of a subsidiary or wholly-owned corporation shall include all employees of a parent or sister corporation.

(3) EXCEPTION FOR INSUFFICIENT AWARD IN CASES OF EGREGIOUS CONDUCT.—

(A) DETERMINATION BY COURT.—If the court makes a determination, after considering each of the factors in subparagraph (B), that the application of paragraph (1) would result in an award of punitive damages that is insufficient to punish the egregious conduct of the defendant against whom the punitive damages are to be awarded or to deter such conduct in the future, the court shall deter-

mine the additional amount of punitive damages (referred to in this paragraph as the "additional amount") in excess of the amount determined in accordance with paragraph (1) to be awarded against the defendant in a separate proceeding in accordance with this paragraph.

(B) FACTORS FOR CONSIDERATION.—In any proceeding under paragraph (A), the court shall consider—

- (i) the extent to which the defendant acted with actual malice;
- (ii) the likelihood that serious harm would arise from the conduct of the defendant;
- (iii) the degree of the awareness of the defendant of that likelihood;
- (iv) the profitability of the misconduct to the defendant;
- (v) the duration of the misconduct and any concurrent or subsequent concealment of the conduct by the defendant;
- (vi) the attitude and conduct of the defendant upon the discovery of the misconduct and whether the misconduct has terminated;
- (vii) the financial condition of the defendant; and
- (viii) the cumulative deterrent effect of other losses, damages, and punishment suffered by the defendant as a result of the misconduct, reducing the amount of punitive damages on the basis of the economic impact and severity of all measures to which the defendant has been or may be subjected, including—

- (I) compensatory and punitive damage awards to similarly situated claimants;
- (II) the adverse economic effect of stigma or loss of reputation;
- (III) civil fines and criminal and administrative penalties; and
- (IV) stop sale, cease and desist, and other remedial or enforcement orders.

(C) REQUIREMENTS FOR AWARDING ADDITIONAL AMOUNT.—If the court awards an additional amount pursuant to this subsection, the court shall state its reasons for setting the amount of the additional amount in findings of fact and conclusions of law.

(D) PREEMPTION.—This section does not create a cause of action for punitive damages and does not preempt or supersede any State or Federal law to the extent that such law would further limit the award of punitive damages. Nothing in this subsection shall modify or reduce the ability of courts to order remittitur.

(4) APPLICATION BY COURT.—This subsection shall be applied by the court and application of this subsection shall not be disclosed to the jury. Nothing in this subsection shall authorize the court to enter an award of punitive damages in excess of the jury's initial award of punitive damages.

(c) BIFURCATION AT REQUEST OF ANY PARTY.—

(1) IN GENERAL.—At the request of any party the trier of fact in any action that is subject to this section shall consider in a separate proceeding, held subsequent to the determination of the amount of compensatory damages, whether punitive damages are to be awarded for the harm that is the subject of the action and the amount of the award.

(2) INADMISSIBILITY OF EVIDENCE RELATIVE ONLY TO A CLAIM OF PUNITIVE DAMAGES IN A PROCEEDING CONCERNING COMPENSATORY DAMAGES.—If any party requests a separate proceeding under paragraph (1), in a proceeding to determine whether the claimant may be awarded compensatory damages, any evidence, argument, or contention that is relevant only to the claim of punitive damages, as determined by applicable State law, shall be inadmissible.

**SEC. 109. LIABILITY FOR CERTAIN CLAIMS RELATING TO DEATH.**

In any civil action in which the alleged harm to the claimant is death and, as of the

effective date of this Act, the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a defendant may be liable for any such damages without regard to section 108, but only during such time as the State law so provides. This section shall cease to be effective September 1, 1996.

**SEC. 110. SEVERAL LIABILITY FOR NONECONOMIC LOSS.**

(a) GENERAL RULE.—In a product liability action, the liability of each defendant for noneconomic loss shall be several only and shall not be joint.

(b) AMOUNT OF LIABILITY.—

(1) IN GENERAL.—Each defendant shall be liable only for the amount of noneconomic loss allocated to the defendant in direct proportion to the percentage of responsibility of the defendant (determined in accordance with paragraph (2)) for the harm to the claimant with respect to which the defendant is liable. The court shall render a separate judgment against each defendant in an amount determined pursuant to the preceding sentence.

(2) PERCENTAGE OF RESPONSIBILITY.—For purposes of determining the amount of noneconomic loss allocated to a defendant under this section, the trier of fact shall determine the percentage of responsibility of each person responsible for the claimant's harm, whether or not such person is a party to the action.

**SEC. 111. WORKERS' COMPENSATION SUBROGATION.**

(a) GENERAL RULE.—

(1) RIGHT OF SUBROGATION.—

(A) IN GENERAL.—An insurer shall have a right of subrogation against a manufacturer or product seller to recover any claimant's benefits relating to harm that is the subject of a product liability action that is subject to this Act.

(B) WRITTEN NOTIFICATION.—To assert a right of subrogation under subparagraph (A), the insurer shall provide written notice to the court in which the product liability action is brought.

(C) INSURER NOT REQUIRED TO BE A PARTY.—An insurer shall not be required to be a necessary and proper party in a product liability action covered under subparagraph (A).

(2) SETTLEMENTS AND OTHER LEGAL PROCEEDINGS.—

(A) IN GENERAL.—In any proceeding relating to harm or settlement with the manufacturer or product seller by a claimant who files a product liability action that is subject to this Act, an insurer may participate to assert a right of subrogation for claimant's benefits with respect to any payment made by the manufacturer or product seller by reason of such harm, without regard to whether the payment is made—

- (i) as part of a settlement;
- (ii) in satisfaction of judgment;
- (iii) as consideration for a covenant not to sue; or
- (iv) in another manner.

(B) WRITTEN NOTIFICATION.—Except as provided in subparagraph (C), an employee shall not make any settlement with or accept any payment from the manufacturer or product seller without written notification to the insurer.

(C) EXEMPTION.—Subparagraph (B) shall not apply in any case in which the insurer has been compensated for the full amount of the claimant's benefits.

(3) HARM RESULTING FROM ACTION OF EMPLOYER OR COEMPLOYEE.—

(A) IN GENERAL.—If, with respect to a product liability action that is subject to this Act, the manufacturer or product seller attempts to persuade the trier of fact that the harm to the claimant was caused by the fault of the employer of the claimant or any

coemployee of the claimant, the issue of that fault shall be submitted to the trier of fact, but only after the manufacturer or product seller has provided timely written notice to the insurer.

(B) RIGHTS OF INSURER.—

(i) IN GENERAL.—Notwithstanding any other provision of law, with respect to an issue of fault submitted to a trier of fact pursuant to subparagraph (A), an insurer shall, in the same manner as any party in the action (even if the insurer is not a named party in the action), have the right to—

- (I) appear;
- (II) be represented;
- (III) introduce evidence;
- (IV) cross-examine adverse witnesses; and
- (V) present arguments to the trier of fact.

(ii) LAST ISSUE.—The issue of harm resulting from an action of an employer or coemployee shall be the last issue that is submitted to the trier of fact.

(C) REDUCTION OF DAMAGES.—If the trier of fact finds by clear and convincing evidence that the harm to the claimant that is the subject of the product liability action was caused by the fault of the employer or a coemployee of the claimant—

(i) the court shall reduce by the amount of the claimant's benefits—

(I) the damages awarded against the manufacturer or product seller; and

(II) any corresponding insurer's subrogation lien; and

(ii) the manufacturer or product seller shall have no further right by way of contribution or otherwise against the employer.

(D) CERTAIN RIGHTS OF SUBROGATION NOT AFFECTED.—Notwithstanding a finding by the trier of fact described in subparagraph (C), the insurer shall not lose any right of subrogation related to any—

(i) intentional tort committed against the claimant by a coemployee; or

(ii) act committed by a coemployee outside the scope of normal work practices.

(b) ATTORNEY'S FEES.—If, in a product liability action that is subject to this section, the court finds that harm to a claimant was not caused by the fault of the employer or a coemployee of the claimant, the manufacturer or product seller shall reimburse the insurer for reasonable attorney's fees and court costs incurred by the insurer in the action, as determined by the court.

**TITLE II—BIOMATERIALS ACCESS ASSURANCE**

**SEC. 201. SHORT TITLE.**

This title may be cited as the "Biomaterials Access Assurance Act of 1996".

**SEC. 202. FINDINGS.**

Congress finds that—

(1) each year millions of citizens of the United States depend on the availability of lifesaving or life enhancing medical devices, many of which are permanently implantable within the human body;

(2) a continued supply of raw materials and component parts is necessary for the invention, development, improvement, and maintenance of the supply of the devices;

(3) most of the medical devices are made with raw materials and component parts that—

(A) are not designed or manufactured specifically for use in medical devices; and

(B) come in contact with internal human tissue;

(4) the raw materials and component parts also are used in a variety of nonmedical products;

(5) because small quantities of the raw materials and component parts are used for medical devices, sales of raw materials and component parts for medical devices constitute an extremely small portion of the overall market for the raw materials and medical devices;

(6) under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), manufacturers of medical devices are required to demonstrate that the medical devices are safe and effective, including demonstrating that the products are properly designed and have adequate warnings or instructions;

(7) notwithstanding the fact that raw materials and component parts suppliers do not design, produce, or test a final medical device, the suppliers have been the subject of actions alleging inadequate—

(A) design and testing of medical devices manufactured with materials or parts supplied by the suppliers; or

(B) warnings related to the use of such medical devices;

(8) even though suppliers of raw materials and component parts have very rarely been held liable in such actions, such suppliers have ceased supplying certain raw materials and component parts for use in medical devices because the costs associated with litigation in order to ensure a favorable judgment for the suppliers far exceeds the total potential sales revenues from sales by such suppliers to the medical device industry;

(9) unless alternate sources of supply can be found, the unavailability of raw materials and component parts for medical devices will lead to unavailability of lifesaving and life-enhancing medical devices;

(10) because other suppliers of the raw materials and component parts in foreign nations are refusing to sell raw materials or component parts for use in manufacturing certain medical devices in the United States, the prospects for development of new sources of supply for the full range of threatened raw materials and component parts for medical devices are remote;

(11) it is unlikely that the small market for such raw materials and component parts in the United States could support the large investment needed to develop new suppliers of such raw materials and component parts;

(12) attempts to develop such new suppliers would raise the cost of medical devices;

(13) courts that have considered the duties of the suppliers of the raw materials and component parts have generally found that the suppliers do not have a duty—

(A) to evaluate the safety and efficacy of the use of a raw material or component part in a medical device; and

(B) to warn consumers concerning the safety and effectiveness of a medical device;

(14) attempts to impose the duties referred to in subparagraphs (A) and (B) of paragraph (13) on suppliers of the raw materials and component parts would cause more harm than good by driving the suppliers to cease supplying manufacturers of medical devices; and

(15) in order to safeguard the availability of a wide variety of lifesaving and life-enhancing medical devices, immediate action is needed—

(A) to clarify the permissible bases of liability for suppliers of raw materials and component parts for medical devices; and

(B) to provide expeditious procedures to dispose of unwarranted suits against the suppliers in such manner as to minimize litigation costs.

#### SEC. 203. DEFINITIONS.

As used in this title:

(1) BIOMATERIALS SUPPLIER.—

(A) IN GENERAL.—The term “biomaterials supplier” means an entity that directly or indirectly supplies a component part or raw material for use in the manufacture of an implant.

(B) PERSONS INCLUDED.—Such term includes any person who—

(i) has submitted master files to the Secretary for purposes of premarket approval of a medical device; or

(ii) licenses a biomaterials supplier to produce component parts or raw materials.

(2) CLAIMANT.—

(A) IN GENERAL.—The term “claimant” means any person who brings a civil action, or on whose behalf a civil action is brought, arising from harm allegedly caused directly or indirectly by an implant, including a person other than the individual into whose body, or in contact with whose blood or tissue, the implant is placed, who claims to have suffered harm as a result of the implant.

(B) ACTION BROUGHT ON BEHALF OF AN ESTATE.—With respect to an action brought on behalf of or through the estate of an individual into whose body, or in contact with whose blood or tissue the implant is placed, such term includes the decedent that is the subject of the action.

(C) ACTION BROUGHT ON BEHALF OF A MINOR OR INCOMPETENT.—With respect to an action brought on behalf of or through a minor or incompetent, such term includes the parent or guardian of the minor or incompetent.

(D) EXCLUSIONS.—Such term does not include—

(i) a provider of professional health care services, in any case in which—

(I) the sale or use of an implant is incidental to the transaction; and

(II) the essence of the transaction is the furnishing of judgment, skill, or services; or

(ii) a person acting in the capacity of a manufacturer, seller, or biomaterials supplier.

(3) COMPONENT PART.—

(A) IN GENERAL.—The term “component part” means a manufactured piece of an implant.

(B) CERTAIN COMPONENTS.—Such term includes a manufactured piece of an implant that—

(i) has significant non-implant applications; and

(ii) alone, has no implant value or purpose, but when combined with other component parts and materials, constitutes an implant.

(4) HARM.—

(A) IN GENERAL.—The term “harm” means—

(i) any injury to or damage suffered by an individual;

(ii) any illness, disease, or death of that individual resulting from that injury or damage; and

(iii) any loss to that individual or any other individual resulting from that injury or damage.

(B) EXCLUSION.—The term does not include any commercial loss or loss of or damage to an implant.

(5) IMPLANT.—The term “implant” means—

(A) a medical device that is intended by the manufacturer of the device—

(i) to be placed into a surgically or naturally formed or existing cavity of the body for a period of at least 30 days; or

(ii) to remain in contact with bodily fluids or internal human tissue through a surgically produced opening for a period of less than 30 days; and

(B) suture materials used in implant procedures.

(6) MANUFACTURER.—The term “manufacturer” means any person who, with respect to an implant—

(A) is engaged in the manufacture, preparation, propagation, compounding, or processing (as defined in section 510(a)(1)) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(a)(1)) of the implant; and

(B) is required—

(i) to register with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) to include the implant on a list of devices filed with the Secretary pursuant to

section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section.

(7) MEDICAL DEVICE.—The term “medical device” means a device, as defined in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)) and includes any device component of any combination product as that term is used in section 503(g) of such Act (21 U.S.C. 353(g)).

(8) RAW MATERIAL.—The term “raw material” means a substance or product that—

(A) has a generic use; and

(B) may be used in an application other than an implant.

(9) SECRETARY.—The term “Secretary” means the Secretary of Health and Human Services.

(10) SELLER.—

(A) IN GENERAL.—The term “seller” means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, packages, labels, or otherwise places an implant in the stream of commerce.

(B) EXCLUSIONS.—The term does not include—

(i) a seller or lessor of real property;

(ii) a provider of professional services, in any case in which the sale or use of an implant is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(iii) any person who acts in only a financial capacity with respect to the sale of an implant.

#### SEC. 204. GENERAL REQUIREMENTS; APPLICABILITY; PREEMPTION.

(a) GENERAL REQUIREMENTS.—

(1) IN GENERAL.—In any civil action covered by this title, a biomaterials supplier may raise any defense set forth in section 205.

(2) PROCEDURES.—Notwithstanding any other provision of law, the Federal or State court in which a civil action covered by this title is pending shall, in connection with a motion for dismissal or judgment based on a defense described in paragraph (1), use the procedures set forth in section 206.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, this title applies to any civil action brought by a claimant, whether in a Federal or State court, against a manufacturer, seller, or biomaterials supplier, on the basis of any legal theory, for harm allegedly caused by an implant.

(2) EXCLUSION.—A civil action brought by a purchaser of a medical device for use in providing professional services against a manufacturer, seller, or biomaterials supplier for loss or damage to an implant or for commercial loss to the purchaser—

(A) shall not be considered an action that is subject to this title; and

(B) shall be governed by applicable commercial or contract law.

(c) SCOPE OF PREEMPTION.—

(1) IN GENERAL.—This title supersedes any State law regarding recovery for harm caused by an implant and any rule of procedure applicable to a civil action to recover damages for such harm only to the extent that this title establishes a rule of law applicable to the recovery of such damages.

(2) APPLICABILITY OF OTHER LAWS.—Any issue that arises under this title and that is not governed by a rule of law applicable to the recovery of damages described in paragraph (1) shall be governed by applicable Federal or State law.

(d) STATUTORY CONSTRUCTION.—Nothing in this title may be construed—

(1) to affect any defense available to a defendant under any other provisions of Federal or State law in an action alleging harm caused by an implant; or

(2) to create a cause of action or Federal court jurisdiction pursuant to section 1331 or 1337 of title 28, United States Code, that otherwise would not exist under applicable Federal or State law.

**SEC. 205. LIABILITY OF BIOMATERIALS SUPPLIERS.**

(a) IN GENERAL.—

(1) EXCLUSION FROM LIABILITY.—Except as provided in paragraph (2), a biomaterials supplier shall not be liable for harm to a claimant caused by an implant.

(2) LIABILITY.—A biomaterials supplier that—

(A) is a manufacturer may be liable for harm to a claimant described in subsection (b);

(B) is a seller may be liable for harm to a claimant described in subsection (c); and

(C) furnishes raw materials or component parts that fail to meet applicable contractual requirements or specifications may be liable for a harm to a claimant described in subsection (d).

(b) LIABILITY AS MANUFACTURER.—

(1) IN GENERAL.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant if the biomaterials supplier is the manufacturer of the implant.

(2) GROUNDS FOR LIABILITY.—The biomaterials supplier may be considered the manufacturer of the implant that allegedly caused harm to a claimant only if the biomaterials supplier—

(A) (i) has registered with the Secretary pursuant to section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) and the regulations issued under such section; and

(ii) included the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section;

(B) is the subject of a declaration issued by the Secretary pursuant to paragraph (3) that states that the supplier, with respect to the implant that allegedly caused harm to the claimant, was required to—

(i) register with the Secretary under section 510 of such Act (21 U.S.C. 360), and the regulations issued under such section, but failed to do so; or

(ii) include the implant on a list of devices filed with the Secretary pursuant to section 510(j) of such Act (21 U.S.C. 360(j)) and the regulations issued under such section, but failed to do so; or

(C) is related by common ownership or control to a person meeting all the requirements described in subparagraph (A) or (B), if the court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(i) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a manufacturer because the related manufacturer meeting the requirements of subparagraph (A) or (B) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(3) ADMINISTRATIVE PROCEDURES.—

(A) IN GENERAL.—The Secretary may issue a declaration described in paragraph (2)(B) on the motion of the Secretary or on petition by any person, after providing—

(i) notice to the affected persons; and

(ii) an opportunity for an informal hearing.

(B) DOCKETING AND FINAL DECISION.—Immediately upon receipt of a petition filed pursuant to this paragraph, the Secretary shall docket the petition. Not later than 180 days after the petition is filed, the Secretary shall issue a final decision on the petition.

(C) APPLICABILITY OF STATUTE OF LIMITATIONS.—Any applicable statute of limitations

shall toll during the period during which a claimant has filed a petition with the Secretary under this paragraph.

(c) LIABILITY AS SELLER.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable as a seller for harm to a claimant caused by an implant if—

(1) the biomaterials supplier—

(A) held title to the implant that allegedly caused harm to the claimant as a result of purchasing the implant after—

(i) the manufacture of the implant; and

(ii) the entrance of the implant in the stream of commerce; and

(B) subsequently resold the implant; or

(2) the biomaterials supplier is related by common ownership or control to a person meeting all the requirements described in paragraph (1), if a court deciding a motion to dismiss in accordance with section 206(c)(3)(B)(ii) finds, on the basis of affidavits submitted in accordance with section 206, that it is necessary to impose liability on the biomaterials supplier as a seller because the related seller meeting the requirements of paragraph (1) lacks sufficient financial resources to satisfy any judgment that the court feels it is likely to enter should the claimant prevail.

(d) LIABILITY FOR VIOLATING CONTRACTUAL REQUIREMENTS OR SPECIFICATIONS.—A biomaterials supplier may, to the extent required and permitted by any other applicable law, be liable for harm to a claimant caused by an implant, if the claimant in an action shows, by a preponderance of the evidence, that—

(1) the raw materials or component parts delivered by the biomaterials supplier either—

(A) did not constitute the product described in the contract between the biomaterials supplier and the person who contracted for delivery of the product; or

(B) failed to meet any specifications that were—

(i) provided to the biomaterials supplier and not expressly repudiated by the biomaterials supplier prior to acceptance of delivery of the raw materials or component parts;

(ii) (I) published by the biomaterials supplier;

(II) provided to the manufacturer by the biomaterials supplier; or

(III) contained in a master file that was submitted by the biomaterials supplier to the Secretary and that is currently maintained by the biomaterials supplier for purposes of premarket approval of medical devices; or

(iii) included in the submissions for purposes of premarket approval or review by the Secretary under section 510, 513, 515, or 520 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360, 360c, 360e, or 360j), and received clearance from the Secretary if such specifications were provided by the manufacturer to the biomaterials supplier and were not expressly repudiated by the biomaterials supplier prior to the acceptance by the manufacturer of delivery of the raw materials or component parts; and

(2) such conduct was an actual and proximate cause of the harm to the claimant.

**SEC. 206. PROCEDURES FOR DISMISSAL OF CIVIL ACTIONS AGAINST BIOMATERIALS SUPPLIERS.**

(a) MOTION TO DISMISS.—In any action that is subject to this title, a biomaterials supplier who is a defendant in such action may, at any time during which a motion to dismiss may be filed under an applicable law, move to dismiss the action against it on the grounds that—

(1) the defendant is a biomaterials supplier; and

(2) (A) the defendant should not, for the purposes of—

(i) section 205(b), be considered to be a manufacturer of the implant that is subject to such section; or

(ii) section 205(c), be considered to be a seller of the implant that allegedly caused harm to the claimant; or

(B) (i) the claimant has failed to establish, pursuant to section 205(d), that the supplier furnished raw materials or component parts in violation of contractual requirements or specifications; or

(ii) the claimant has failed to comply with the procedural requirements of subsection (b).

(b) MANUFACTURER OF IMPLANT SHALL BE NAMED A PARTY.—The claimant shall be required to name the manufacturer of the implant as a party to the action, unless—

(1) the manufacturer is subject to service of process solely in a jurisdiction in which the biomaterials supplier is not domiciled or subject to a service of process; or

(2) an action against the manufacturer is barred by applicable law.

(c) PROCEEDING ON MOTION TO DISMISS.—The following rules shall apply to any proceeding on a motion to dismiss filed under this section:

(1) AFFIDAVITS RELATING TO LISTING AND DECLARATIONS.—

(A) IN GENERAL.—The defendant in the action may submit an affidavit demonstrating that defendant has not included the implant on a list, if any, filed with the Secretary pursuant to section 510(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(j)).

(B) RESPONSE TO MOTION TO DISMISS.—In response to the motion to dismiss, the claimant may submit an affidavit demonstrating that—

(i) the Secretary has, with respect to the defendant and the implant that allegedly caused harm to the claimant, issued a declaration pursuant to section 205(b)(2)(B); or

(ii) the defendant who filed the motion to dismiss is a seller of the implant who is liable under section 205(c).

(2) EFFECT OF MOTION TO DISMISS ON DISCOVERY.—

(A) IN GENERAL.—If a defendant files a motion to dismiss under paragraph (1) or (2) of subsection (a), no discovery shall be permitted in connection to the action that is the subject of the motion, other than discovery necessary to determine a motion to dismiss for lack of jurisdiction, until such time as the court rules on the motion to dismiss in accordance with the affidavits submitted by the parties in accordance with this section.

(B) DISCOVERY.—If a defendant files a motion to dismiss under subsection (a)(2)(B)(i) on the grounds that the biomaterials supplier did not furnish raw materials or component parts in violation of contractual requirements or specifications, the court may permit discovery, as ordered by the court. The discovery conducted pursuant to this subparagraph shall be limited to issues that are directly relevant to—

(i) the pending motion to dismiss; or

(ii) the jurisdiction of the court.

(3) AFFIDAVITS RELATING STATUS OF DEFENDANT.—

(A) IN GENERAL.—Except as provided in clauses (i) and (ii) of subparagraph (B), the court shall consider a defendant to be a biomaterials supplier who is not subject to an action for harm to a claimant caused by an implant, other than an action relating to liability for a violation of contractual requirements or specifications described in subsection (d).

(B) RESPONSES TO MOTION TO DISMISS.—The court shall grant a motion to dismiss any action that asserts liability of the defendant under subsection (b) or (c) of section 205 on the grounds that the defendant is not a manufacturer subject to such section 205(b) or

seller subject to section 205(c), unless the claimant submits a valid affidavit that demonstrates that—

(i) with respect to a motion to dismiss contending the defendant is not a manufacturer, the defendant meets the applicable requirements for liability as a manufacturer under section 205(b); or

(ii) with respect to a motion to dismiss contending that the defendant is not a seller, the defendant meets the applicable requirements for liability as a seller under section 205(c).

(4) BASIS OF RULING ON MOTION TO DISMISS.—

(A) IN GENERAL.—The court shall rule on a motion to dismiss filed under subsection (a) solely on the basis of the pleadings of the parties made pursuant to this section and any affidavits submitted by the parties pursuant to this section.

(B) MOTION FOR SUMMARY JUDGMENT.—Notwithstanding any other provision of law, if the court determines that the pleadings and affidavits made by parties pursuant to this section raise genuine issues as concerning material facts with respect to a motion concerning contractual requirements and specifications, the court may deem the motion to dismiss to be a motion for summary judgment made pursuant to subsection (d).

(d) SUMMARY JUDGMENT.—

(1) IN GENERAL.—

(A) BASIS FOR ENTRY OF JUDGMENT.—A biomaterials supplier shall be entitled to entry of judgment without trial if the court finds there is no genuine issue as concerning any material fact for each applicable element set forth in paragraphs (1) and (2) of section 205(d).

(B) ISSUES OF MATERIAL FACT.—With respect to a finding made under subparagraph (A), the court shall consider a genuine issue of material fact to exist only if the evidence submitted by claimant would be sufficient to allow a reasonable jury to reach a verdict for the claimant if the jury found the evidence to be credible.

(2) DISCOVERY MADE PRIOR TO A RULING ON A MOTION FOR SUMMARY JUDGMENT.—If, under applicable rules, the court permits discovery prior to a ruling on a motion for summary judgment made pursuant to this subsection, such discovery shall be limited solely to establishing whether a genuine issue of material fact exists as to the applicable elements set forth in paragraphs (1) and (2) of section 205(d).

(3) DISCOVERY WITH RESPECT TO A BIOMATERIALS SUPPLIER.—A biomaterials supplier shall be subject to discovery in connection with a motion seeking dismissal or summary judgment on the basis of the inapplicability of section 205(d) or the failure to establish the applicable elements of section 205(d) solely to the extent permitted by the applicable Federal or State rules for discovery against nonparties.

(e) STAY PENDING PETITION FOR DECLARATION.—If a claimant has filed a petition for a declaration pursuant to section 205(b)(3)(A) with respect to a defendant, and the Secretary has not issued a final decision on the petition, the court shall stay all proceedings with respect to that defendant until such time as the Secretary has issued a final decision on the petition.

(f) MANUFACTURER CONDUCT OF PROCEEDING.—The manufacturer of an implant that is the subject of an action covered under this title shall be permitted to file and conduct a proceeding on any motion for summary judgment or dismissal filed by a biomaterials supplier who is a defendant under this section if the manufacturer and any other defendant in such action enter into a valid and applicable contractual agreement under which the manufacturer agrees to bear the cost of such proceeding or to conduct such proceeding.

(g) ATTORNEY FEES.—The court shall require the claimant to compensate the biomaterials supplier (or a manufacturer appearing in lieu of a supplier pursuant to subsection (f)) for attorney fees and costs, if—

(1) the claimant named or joined the biomaterials supplier; and

(2) the court found the claim against the biomaterials supplier to be without merit and frivolous.

**TITLE III—LIMITATIONS ON APPLICABILITY; EFFECTIVE DATE**

**SEC. 301. EFFECT OF COURT OF APPEALS DECISIONS.**

A decision by a Federal circuit court of appeals interpreting a provision of this Act (except to the extent that the decision is overruled or otherwise modified by the Supreme Court) shall be considered a controlling precedent with respect to any subsequent decision made concerning the interpretation of such provision by any Federal or State court within the geographical boundaries of the area under the jurisdiction of the circuit court of appeals.

**SEC. 302. FEDERAL CAUSE OF ACTION PRECLUDED.**

The district courts of the United States shall not have jurisdiction pursuant to this Act based on section 1331 or 1337 of title 28, United States Code.

**SEC. 303. EFFECTIVE DATE.**

This Act shall apply with respect to any action commenced on or after the date of the enactment of this Act without regard to whether the harm that is the subject of the action or the conduct that caused the harm occurred before such date of enactment.

And the Senate agree to the same.

From the Committee on the Judiciary, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

- HENRY HYDE,
- JAMES SENSENBRENNER, Jr.,
- GEORGE W. GEKAS,
- BOB INGLIS,
- ED BRYANT,

From the Committee on Commerce, for consideration of the House bill, and the Senate amendment, and modifications committed to conference:

- TOM BLILEY,
  - MICHAEL OXLEY,
  - CHRISTOPHER COX,
- Managers on the Part of the House.*
- LARRY PRESSLER,
  - SLADE GORTON,
  - TRENT LOTT,
  - TED STEVENS,
  - OLYMPIA SNOWE,
  - JOHN ASHCROFT,
  - J.J. EXON,
  - JOHN D. ROCKEFELLER,

*Managers on the Part of the Senate.*

When said conference report was considered.

After debate,

By unanimous consent, the previous question was ordered on the conference report to its adoption or rejection.

The question being put, viva voce,

Will the House agree to said conference report?

The SPEAKER pro tempore, Mr. GUNDERSON, announced that the yeas had it.

Mr. HYDE objected to the vote on the ground that a quorum was not present and not voting.

A quorum not being present,

The roll was called under clause 4, rule XV, and the call was taken by electronic device.

When there appeared { Yeas ..... 259  
Nays ..... 158

¶38.13

[Roll No. 110]

YEAS—259

- |               |               |               |
|---------------|---------------|---------------|
| Allard        | Galleghy      | Myrick        |
| Archer        | Ganske        | Nethercutt    |
| Armey         | Gekas         | Neumann       |
| Bachus        | Geren         | Ney           |
| Baker (CA)    | Gilchrest     | Norwood       |
| Baker (LA)    | Gillmor       | Nussle        |
| Ballenger     | Goodlatte     | Oxley         |
| Barcia        | Goodling      | Packard       |
| Barr          | Gordon        | Parker        |
| Barrett (NE)  | Goss          | Paxon         |
| Bartlett      | Graham        | Payne (VA)    |
| Barton        | Greenwood     | Peterson (FL) |
| Bass          | Gunderson     | Peterson (MN) |
| Bateman       | Gutknecht     | Petri         |
| Bereuter      | Hall (OH)     | Pombo         |
| Bilbray       | Hall (TX)     | Porter        |
| Bilirakis     | Hamilton      | Portman       |
| Bliley        | Hancock       | Pryce         |
| Blute         | Hansen        | Quillen       |
| Boehlert      | Harman        | Quinn         |
| Boehner       | Hastert       | Radanovich    |
| Bonilla       | Hastings (WA) | Ramstad       |
| Bono          | Hayworth      | Reed          |
| Boucher       | Hefley        | Regula        |
| Brewster      | Hefner        | Riggs         |
| Browder       | Heineman      | Roberts       |
| Brownback     | Herger        | Roemer        |
| Bryant (TN)   | Hilleary      | Rogers        |
| Bunn          | Hobson        | Rohrabacher   |
| Bunning       | Hoekstra      | Ros-Lehtinen  |
| Burr          | Hoke          | Roth          |
| Burton        | Holden        | Roukema       |
| Buyer         | Horn          | Royce         |
| Callahan      | Hostettler    | Salmon        |
| Calvert       | Houghton      | Sanford       |
| Camp          | Hunter        | Saxton        |
| Campbell      | Hutchinson    | Scarborough   |
| Canady        | Hyde          | Schaefer      |
| Castle        | Inglis        | Schiff        |
| Chabot        | Istook        | Seastrand     |
| Chambliss     | Johnson (CT)  | Sensenbrenner |
| Chenoweth     | Johnson, Sam  | Shadegg       |
| Christensen   | Jones         | Shaw          |
| Chrysler      | Kaptur        | Shays         |
| Clement       | Kasich        | Shuster       |
| Clinger       | Kelly         | Sisisky       |
| Coburn        | Kennelly      | Skeen         |
| Collins (GA)  | Kim           | Slaughter     |
| Combest       | Kingston      | Smith (MI)    |
| Condit        | Klug          | Smith (NJ)    |
| Cooley        | Knollenberg   | Smith (WA)    |
| Cox           | Kolbe         | Solomon       |
| Cramer        | LaHood        | Souder        |
| Crane         | Largent       | Spence        |
| Crapo         | Latham        | Spratt        |
| Creameans     | LaTourette    | Stearns       |
| Cubin         | Laughlin      | Stenholm      |
| Cunningham    | Lazio         | Stockman      |
| Davis         | Leach         | Stump         |
| Deal          | Lewis (CA)    | Talent        |
| DeLay         | Lewis (KY)    | Tanner        |
| Dickey        | Lightfoot     | Tate          |
| Dingell       | Lincoln       | Tauzin        |
| Dooley        | Linder        | Taylor (MS)   |
| Doolittle     | Livingston    | Taylor (NC)   |
| Dornan        | LoBiondo      | Thomas        |
| Dreier        | Longley       | Thornberry    |
| Duncan        | Lucas         | Tiahrt        |
| Dunn          | Manzullo      | Torkildsen    |
| Edwards       | McCollum      | Upton         |
| Ehlers        | McCrery       | Vucanovich    |
| Ehrlich       | McDade        | Waldholtz     |
| Emerson       | McHugh        | Walker        |
| English       | McInnis       | Walsh         |
| Ensign        | McIntosh      | Wamp          |
| Everett       | McKeon        | Watts (OK)    |
| Ewing         | Metcalf       | Weldon (FL)   |
| Fawell        | Meyers        | White         |
| Flanagan      | Mica          | Whitfield     |
| Foley         | Miller (FL)   | Wicker        |
| Forbes        | Minge         | Wolf          |
| Fox           | Molinaro      | Young (AK)    |
| Franks (CT)   | Montgomery    | Young (FL)    |
| Franks (NJ)   | Moorhead      | Zeliff        |
| Frelinghuysen | Moran         | Zimmer        |
| Frisa         | Morella       |               |
| Funderburk    | Myers         |               |

NAYS—158

- |             |              |            |
|-------------|--------------|------------|
| Abercrombie | Barrett (WI) | Bevill     |
| Ackerman    | Becerra      | Bishop     |
| Andrews     | Bellenson    | Bonior     |
| Baessler    | Bentsen      | Borski     |
| Baldacci    | Berman       | Brown (CA) |

Brown (FL)	Jackson-Lee	Owens
Brown (OH)	(TX)	Pallone
Cardin	Jacobs	Pastor
Chapman	Jefferson	Payne (NJ)
Clay	Johnson (SD)	Pelosi
Clayton	Johnson, E. B.	Pickett
Clyburn	Johnston	Pomerooy
Coble	Kanjorski	Poshard
Coleman	Kennedy (MA)	Rahall
Collins (MI)	Kennedy (RI)	Rangel
Conyers	Kildee	Richardson
Costello	King	Rivers
Coyne	Kleczka	Rose
Danner	Klink	Roybal-Allard
DeFazio	LaFalce	Rush
DeLauro	Lantos	Sabo
Dellums	Levin	Sanders
Deutsch	Lewis (GA)	Sawyer
Diaz-Balart	Lipinski	Schroeder
Dicks	Lofgren	Schumer
Dixon	Lowey	Scott
Doggett	Luther	Serrano
Doyle	Maloney	Skaggs
Durbin	Manton	Skelton
Engel	Markey	Stark
Evans	Martinez	Studds
Farr	Martini	Stupak
Fattah	Mascara	Tejeda
Fazio	Matsui	Thompson
Fields (LA)	McCarthy	Thornton
Filner	McDermott	Thurman
Flake	McHale	Torricelli
Foglietta	McKinney	Towns
Frank (MA)	Meehan	Traficant
Frost	Meeke	Velazquez
Furse	Menendez	Vento
Gejdenson	Miller (CA)	Visclosky
Gephardt	Mink	Volkmer
Gibbons	Moakley	Ward
Gilman	Mollohan	Waters
Gonzalez	Murtha	Watt (NC)
Green	Nadler	Waxman
Gutierrez	Neal	Williams
Hastings (FL)	Oberstar	Wilson
Hilliard	Obey	Wise
Hinchee	Olver	Woolsey
Hoyer	Ortiz	Wynn
Jackson (IL)	Orton	Yates

## NOT VOTING—14

Bryant (TX)	Ford	Stokes
Collins (IL)	Fowler	Torres
de la Garza	Hayes	Weldon (PA)
Eshoo	McNulty	Weller
Fields (TX)	Smith (TX)	

So the conference report was agreed to.

A motion to reconsider the vote whereby said conference report was agreed to was, by unanimous consent, laid on the table.

*Ordered*, That the Clerk notify the Senate thereof.

¶38.14 FURTHER CONTINUING  
APPROPRIATIONS FOR 1996

Mr. LIVINGSTON, pursuant to the special order of the House of heretofore agreed to, called up the joint resolution (H.J. Res. 170) making further continuing appropriations for fiscal year 1996, and for other purposes.

When said joint resolution was considered and read twice.

After debate,

The previous question having been ordered by said special order.

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

The question being put, *viva voce*,

Will the House pass said joint resolution?

The SPEAKER pro tempore, Mr. GUTKNECHT, announced that the yeas had it.

So the joint resolution was passed.

A motion to reconsider the vote whereby said joint resolution was passed was, by unanimous consent, laid on the table.

*Ordered*, That the Clerk request the concurrence of the Senate in said joint resolution.

¶38.15 ADJOURNMENT OF THE TWO  
HOUSES

Mr. ARMEY submitted the following privileged concurrent resolution (H. Con. Res. 157):

*Resolved by the House of Representatives (the Senate concurring)*, That when the House adjourns on the legislative day of Friday, March 29, 1996, it stand adjourned until 12:30 p.m. on Monday, April 15, 1996, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first; and that when the Senate recesses or adjourns at the close of business on Friday, March 29, 1996, Saturday, March 30, 1996, or Sunday, March 31, 1996, pursuant to a motion made by the Majority Leader or his designee in accordance with this resolution, it stand recessed or adjourned until noon on Monday, April 15, 1996, or until such time on that day as may be specified by the Majority Leader or his designee in the motion to recess or adjourn, or until noon on the second day after Members are notified to reassemble pursuant to section 2 of this concurrent resolution, whichever occurs first.

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

When said concurrent resolution was agreed to.

A motion to reconsider the vote whereby said concurrent resolution was agreed to was, by unanimous consent, laid on the table.

*Ordered*, That the Clerk notify the Senate thereof.

¶38.16 COMMITTEE ELECTION—MAJORITY

Mr. ARMEY, by direction of the Republican Conference, submitted the following privileged resolution (H. Res. 397):

Resolved, that the following named Member be, and he is hereby, elected to the following standing committee of the House of Representatives:

Committee on Ways and Means: Mr. HAYES of Louisiana, to rank following Mr. PORTMAN of Ohio.

When said resolution was considered and agreed to.

A motion to reconsider the vote whereby said resolution was agreed to was, by unanimous consent, laid on the table.

¶38.17 SPEAKER AND MINORITY LEADER  
TO ACCEPT RESIGNATIONS, APPOINT  
COMMISSIONS

On motion of Mr. ARMEY, by unanimous consent,

*Ordered*, That, notwithstanding any adjournment of the House until Monday, April 15, 1996, the Speaker and the Minority Leader be authorized to accept resignations and to make appointments authorized by law or by the House.

¶38.18 CALENDAR WEDNESDAY BUSINESS  
DISPENSED WITH

On motion of Mr. ARMEY, by unanimous consent,

*Ordered*, That business in order for consideration on Wednesday, April 17, 1996, under clause 7, rule XXIV, the Calendar Wednesday rule, be dispensed with.

¶38.19 DESIGNATION OF SPEAKER PRO  
TEMPORE TO SIGN ENROLLMENTS

The SPEAKER laid before the House a communication, which was read as follows:

WASHINGTON, DC,  
March 29, 1996.

I hereby designate the Honorable BILL EMERSON to act as Speaker pro tempore to sign enrolled bills and joint resolutions through Monday, April 15, 1996.

NEWT GINGRICH,  
*Speaker of the House of Representatives.*

By unanimous consent, the designation was accepted.

¶38.20 SUBPOENA

The SPEAKER pro tempore, Mr. GUTKNECHT, laid before the House the following communication from Mr. BENTSEN:

HOUSE OF REPRESENTATIVES,  
Washington, DC, March 26, 1996.

Hon. NEWT GINGRICH,  
*Speaker of the House, House of Representatives,  
The Capitol, Washington, DC.*

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that a member of my staff has been served with a subpoena issued by the United States District Court for the District of Columbia. This subpoena relates to her employment by a former Member of the House.

After consultation with the General Counsel, I have determined that compliance with the subpoena is consistent with the privileges and procedures of the House.

With kindest personal regards,

Sincerely,

KENNETH E. BENTSEN, Jr.,  
*Member of Congress.*

¶38.21 BRITISH-AMERICAN  
INTERPARLIAMENTARY GROUP

The SPEAKER pro tempore, Mr. GUTKNECHT, by unanimous consent, announced that pursuant to section 168(b) of Public Law 102-138, the Speaker appointed to the British-American Interparliamentary Group, on the part of the House, the following Members: Messrs. CLINGER, Vice Chair, BROWNBACK, EMERSON, LINDER, Ms. MOLINARI, Mr. PETRI, and Ms. PRYCE.

¶38.22 FURTHER MESSAGE FROM THE  
SENATE

A further 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.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; and

H. Con. Res. 157. Concurrent resolution providing for an adjournment or recess of the two Houses.

The message also announced that pursuant to Public Law 103-432, upon

the recommendation of the majority leader, Jo Anne B. Barnhart of Virginia, Martin H. Gerry of Kansas, Gerald H. Miller of Michigan; and upon the recommendation of the minority leader, Paul E. Barton of New Jersey are named to the Advisory Board on Welfare Indicators.

¶38.23 ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER pro tempore, Mr. BARTLETT, announced that pursuant to clause 4, rule I, the Speaker signed the following enrolled joint resolution today:

H.J. Res. 170. A joint resolution making further continuation appropriations for the fiscal year 1996, and for other purposes.

¶38.24 ENROLLED BILL SIGNED

Mr. THOMAS, from the Committee on House Oversight, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3136. An Act to provide for enactment of the Senior Citizen's Right to Work Act of 1996, the Line Item Veto Act, And the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit; and

¶38.25 LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted—

To Mr. GOODLING, until 1 p.m. today; and

To Mr. UNDERWOOD, for today.  
And then,

¶38.26 ADJOURNMENT

On motion of Mr. DORNAN, pursuant to the provisions of House Concurrent Resolution 157, at 5 o'clock p.m., the House adjourned until 12:30 p.m. on Monday, April 15, 1996.

¶38.27 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. KASICH: Committee on the Budget. H.R. 842. A bill to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund; adversely (Rept. No. 104-499, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. MCINNIS: Committee on Rules. House Resolution 395. Resolution providing for consideration of the joint resolution (H.J. Res. 159) proposing an amendment to the Constitution of the United States to require two-thirds majorities for bills increasing taxes (Rept. No. 104-513). Referred to the House Calendar.

Mr. QUILLEN: Committee on Rules. House Resolution 396. Resolution providing for consideration of the bill (H.R. 842) to provide off-budget treatment for the Highway Trust Fund, the Airport and Airway Trust Fund, the Inland Waterways Trust Fund, and the Harbor Maintenance Trust Fund (Rept. No. 104-514). Referred to the House Calendar.

Mr. SHUSTER: Committee on Transportation and Infrastructure. H.R. 2747. A bill to

direct the Administrator of the Environmental Protection Agency to make grants to States for the purpose of financing the construction, rehabilitation, and improvement of water supply systems, and for other purposes; with an amendment (Rept. No. 104-515). Referred to the Committee of the Whole House on the State of the Union.

¶38.28 SUBSEQUENT ACTION ON BILLS INITIALLY REFERRED UNDER TIME LIMITATIONS

Under clause 5 of rule X, the following actions were taken by the Speaker:

H.R. 995. The Committee on Commerce discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

H.R. 3070. The Committees on Ways and Means, the Judiciary, and Economic and Educational Opportunities discharged from further consideration. Referred to the Committee of the Whole House on the State of the Union.

¶38.29 PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CALVERT:

H.R. 3198. A bill to reauthorize and amend the National Geologic Mapping Act of 1992, and for other purposes; to the Committee on Resources.

By Mr. BURR (for himself, Mr. GREENWOOD, Mr. RICHARDSON, Mr. BILIRAKIS, Mr. TOWNS, Mr. BARTON of Texas, Mr. HALL of Texas, Mr. KLUG, Ms. ESHOO, Mr. UPTON, Mr. GORDON, Mr. BILBRAY, Mr. BREWSTER, Mr. COBURN, Mr. DOOLEY, Mr. GANSKE, Mr. MCHALE, Mr. OXLEY, Mr. PAYNE of Virginia, Mr. FIELDS of Texas, Mr. ROSE, Mr. PAXON, Mr. HOLDEN, Mr. TAUZIN, Mr. SCHAEFER, Mr. FOX, Mr. FUNDERBURK, Mr. CAMPBELL, Mr. MCINTOSH, Mr. COX, Mr. DREIER, Mr. HEINEMAN, Mr. WELDON of Florida, Mr. SHAYS, Mr. HASTERT, Mr. NORWOOD, Mr. BURTON of Indiana, Mr. FRAZER, Mr. STEARNS, Mr. FRISA, Mr. RAMSTAD, Mr. MARTINI, and Ms. DUNN of Washington):

H.R. 3199. A bill to amend the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act to facilitate the development and approval of new drugs and biological products, and for other purposes; to the Committee on Commerce.

By Mr. KLUG (for himself, Mr. GREENWOOD, Mr. TOWNS, Mr. BILIRAKIS, Mr. RICHARDSON, Mr. BURR, Mr. HALL of Texas, Mr. BARTON of Texas, Mr. GORDON, Mr. UPTON, Mr. BREWSTER, Mr. BILBRAY, Mr. PAYNE of Virginia, Mr. COBURN, Mr. DOOLEY, Mr. GANSKE, Mr. MCHALE, Mr. OXLEY, Mr. HOLDEN, Mr. FIELDS of Texas, Mr. PAXON, Mr. WHITFIELD, Mr. SCHAEFER, Mr. TAUZIN, Mr. FOX, Mr. CAMPBELL, Mr. MCINTOSH, Mr. COX, Mr. DREIER, Mr. HEINEMAN, Mr. FUNDERBURK, Mr. WELDON of Florida, Mr. SHAYS, Mr. HASTERT, Mr. NORWOOD, Mr. FRAZER, Mr. STEARNS, Mr. FRISA, Mr. RAMSTAD, Mr. MARTINI, and Ms. DUNN of Washington):

H.R. 3200. A bill to amend the Federal Food, Drug, and Cosmetic Act to increase access to nutritional information about foods, to increase the availability of safe food products, and for other purposes; to the Committee on Commerce.

By Mr. BARTON of Texas (for himself, Mr. GREENWOOD, Mr. RICHARDSON, Mr.

BILIRAKIS, Mr. HALL of Texas, Mr. GORDON, Mr. BURR, Ms. ESHOO, Mr. COBURN, Mr. BREWSTER, Mr. KLUG, Mr. DOOLEY, Mr. GANSKE, Mr. MCHALE, Mr. BILBRAY, Mr. PAYNE of Virginia, Mr. OXLEY, Mr. HOLDEN, Mr. FIELDS of Texas, Mr. PAXON, Mr. SCHAEFER, Mr. TAUZIN, Mr. FOX, Mr. UPTON, Mr. CAMPBELL, Mr. MCINTOSH, Mr. COX, Mr. DREIER, Mr. HEINEMAN, Mr. FUNDERBURK, Mr. WELDON of Florida, Mr. HOSTETTLER, Mr. SHAYS, Mr. HASTERT, Mr. NORWOOD, Mr. BURTON of Indiana, Mr. FRAZER, Mr. STEARNS, Mr. FRISA, Mr. RAMSTAD, Mr. MARTINI, and Ms. DUNN of Washington):

H.R. 3201. A bill to amend the Federal Food, Drug, and Cosmetic Act to facilitate the development, clearance, and use of devices to maintain and improve the public health and quality of life of the citizens of the United States; to the Committee on Commerce.

By Mr. DEFAZIO:

H.R. 3202. A bill to decrease military spending to a sensible level by reducing force structure, major weapons system procurement, and other programs; to the Committee on National Security.

By Mr. BILBRAY (for himself and Ms. DUNN of Washington):

H.R. 3203. A bill to require the administrative agency responsible for adjudicating claims under the workers' compensation provisions of title 5, United States Code, to follow certain procedures in seeking medical opinions; to the Committee on Economic and Educational Opportunities.

H.R. 3204. A bill to require the administrative agency responsible for adjudicating claims under the workers' compensation provisions of title 5, United States Code, to select board certified physicians to provide second opinions; to the Committee on Economic and Educational Opportunities.

H.R. 3205. A bill to change the appeals process in the workers' compensation provisions of title 5, United States Code; to the Committee on Economic and Educational Opportunities.

By Mr. CHRISTENSEN (for himself, Mr. HAYES, Mr. NEUMANN, Mrs. MYRICK, and Mr. FOX):

H.R. 3206. A bill to amend title 18, United States Code, with respect to Federal prisoners, and for other purposes; to the Committee on the Judiciary.

By Mr. BAKER of California (for himself, Mr. BEREUTER, Mr. BROWN of California, Mr. CALVERT, Mrs. CLAYTON, Mr. COX, Mr. DICKS, Mr. DELLUMS, Mr. EHLERS, Ms. ESHOO, Mr. FARR, Mr. FUNDERBURK, Mr. GENE GREEN of Texas, Mr. HASTERT, Mr. JACOBS, Mr. PARKER, Mr. ROGERS, Mr. ROYCE, Mr. ROTH, Mr. TAYLOR of North Carolina, Mr. TOWNS, Mr. WELDON of Florida, Mr. WILSON, and Mr. WISE):

H.R. 3207. A bill to amend the Communications Act of 1934 to facilitate utilization of volunteer resources on behalf of the amateur radio service; to the Committee on Commerce.

By Mr. BASS:

H.R. 3208. A bill to amend the Federal Election Campaign Act of 1971 to strengthen certain provisions relating to independent expenditures, and for other purposes; to the Committee on House Oversight.

By Mr. BEREUTER:

H.R. 3209. A bill to amend the Internal Revenue Code of 1986 to increase the maximum amount deferrable under a 457 plan for any year to the amount deferrable for such year under a 401(k) plan, and to require that amounts in 457 plans be held in trust; to the Committee on Ways and Means.

By Mr. CAMPBELL:

H.R. 3210. A bill to amend the Bank Holding Company Act of 1956 to clarify that the Board of Governors of the Federal Reserve System has full discretion with regard to the type and amount of information required to be included in an application to become a bank holding company or to acquire a bank, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. FAWELL:

H.R. 3211. A bill to amend the National Labor Relations Act to protect employer rights; to the Committee on Economic and Educational Opportunities.

H.R. 3212. A bill to amend the Fair Labor Standards Act of 1938 to provide a limited overtime exemption for employees performing emergency medical services; to the Committee on Economic and Educational Opportunities.

By Mr. FORBES:

H.R. 3213. A bill to amend the Marine Protection, Research, and Sanctuaries Act of 1972 relating to the dumping of dredged material in Long Island Sound, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. FRANKS of Connecticut:

H.R. 3214. A bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to establish a brownfield cleanup loan program; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, 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. HAYWORTH:

H.R. 3215. A bill to amend title 18, United States Code, to repeal the provision relating to Federal employees contracting or trading with Indians; to the Committee on the Judiciary.

By Mrs. JOHNSON of Connecticut (for herself, Mr. SHAYS, Mr. FRANKS of New Jersey, and Mr. HORN):

H.R. 3216. A bill to amend the Occupational Safety and Health Act of 1970 to require that inspections of construction sites carried out under that act shall be conducted by inspectors who have been trained pursuant to standards established by the Secretary of Labor; to the Committee on Economic and Educational Opportunities.

By Mr. LATOURETTE (for himself, Mr. SAXTON, Ms. LOFGREN, Ms. RIVERS, Ms. KAPTUR, Mr. GILCHREST, Mr. STUPAK, Mr. QUINN, Mr. RAMSTAD, Mr. MILLER of California, Mr. OBERSTAR, Mr. MEEHAN, Mr. FRANKS of New Jersey, Mr. PETRI, Mr. HOKE, Mr. EHLERS, Mr. DINGELL, Mr. ENGLISH of Pennsylvania, and Mrs. MORELLA):

H.R. 3217. A bill to provide for ballast water management to prevent the introduction and spread of nonindigenous species into the waters of the United States, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Resources, 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. LATOURETTE:

H.R. 3218. A bill to amend the Internal Revenue Code of 1986 to allow taxpayers to designate that a portion of their income tax refunds be retained by the United States for use for certain public purposes; to the Committee on Ways and Means, and in addition to the Committees on the Judiciary, Commerce, and Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall with-

in the jurisdiction of the committee concerned.

By Mr. LAZIO of New York (for himself, Mr. BEREUTER, Mr. HAYWORTH, and Mr. JOHNSON of South Dakota):

H.R. 3219. A bill to provide Federal assistance for Indian tribes in a manner that recognizes the right of tribal self-governance, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. SALMON (for himself and Mr. STEARNS):

H.R. 3220. A bill to provide for the opportunity for the families of murder victims to attend the execution of the murderers; to the Committee on the Judiciary.

By Mr. SANDERS:

H.R. 3221. A bill to amend the Electronic Fund Transfer Act to prohibit the imposition of certain additional fees on consumers in connection with any electronic fund transfer which is initiated by the consumer from an electronic terminal operated by a person other than the financial institution holding the consumer's account and which utilizes a national or regional communication network; to the Committee on Banking and Financial Services.

By Mr. SANDERS (for himself, Mr. STARK, Ms. MCKINNEY, Mr. DELLUMS, Mr. HILLIARD, and Mr. FRAZER):

H.R. 3222. A bill to prohibit gag rule clauses, improper incentive programs, and indemnification clauses in health care insurance contracts and health care employment contracts, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and Economic and Educational Opportunities, 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. SCHIFF (for himself, Mr. MCCOLLUM, Mr. COBLE, Mr. SKEEN, Mr. FROST, Mrs. MYRICK, and Mr. LATOURETTE):

H.R. 3223. A bill to amend title 18, United States Code, to provide mandatory life imprisonment for persons convicted of a second serious violent felony or serious drug offense; to the Committee on the Judiciary.

By Mr. SCHIFF (for himself and Mr. SHAYS):

H.R. 3224. A bill to improve Federal efforts to combat fraud and abuse against health care programs, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Government Reform and Oversight, Ways and Means, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAYS (for himself, Mr. SCHIFF, and Mr. BARRETT of Wisconsin):

H.R. 3225. A bill to amend title XVIII of the Social Security Act to expedite payment adjustments for durable medical equipment under part B of the Medicare Program based upon inherent reasonableness; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOLOMON (for himself and Mr. MILLER of California):

H.R. 3226. A bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes; to the Committee on Commerce, and in addition to the Committee on Economic and Educational Opportunities, for a period to be subsequently determined by the Speaker, in each case for consideration of such provi-

sions as fall within the jurisdiction of the committee concerned.

By Mr. STUPAK:

H.R. 3227. A bill to amend title 23, United States Code, relating to the statewide planning process to provide for greater participation by elected officials having jurisdiction over transportation in nonmetropolitan areas, and for other purposes; to the Committee on Transportation and Infrastructure.

By Ms. VELAZQUEZ (for herself, Mr. GUTIERREZ, Mrs. KENNELLY, Mr. KENNEDY of Massachusetts, Mr. SERRANO, Mr. MENENDEZ, Ms. ROYBAL-ALLARD, and Ms. ROS-LEHTINEN):

H.R. 3228. A bill to require the Secretary of the Treasury to mint coins in commemoration of all the brave and gallant Puerto Ricans in the 65th Infantry Regiment of the United States Army who fought in the Korean conflict; to the Committee on Banking and Financial Services.

By Mr. VENTO:

H.R. 3229. A bill to require that wages paid under a Federal contract are greater than the local poverty line, and for other purposes; to the Committee on Government Reform and Oversight.

By Mr. LIVINGSTON:

H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes; to the Committee on Appropriations.

By Mr. LANTOS:

H.J. Res. 171. Joint resolution proposing an amendment to the Constitution to permit the Congress to limit contributions and expenditures in elections for Federal office; to the Committee on the Judiciary.

By Mr. ARMEY:

H. Con. Res. 157. Concurrent resolution providing for an adjournment or recess of the two Houses; considered and agreed to.

By Mr. BROWDER:

H. Con. Res. 158. Concurrent resolution instructing the Architect of the Capitol to recommend measures to recognize, through the National Statuary Hall, the ongoing contributions of all American citizens, including women; to the Committee on House Oversight.

By Ms. VELAZQUEZ (for herself, Mr. GUTIERREZ, Mrs. KENNELLY, Mr. KENNEDY of Massachusetts, Mr. SERRANO, Mr. MENENDEZ, Ms. ROYBAL-ALLARD, Ms. ROS-LEHTINEN, and Mr. UNDERWOOD):

H. Con. Res. 159. Concurrent resolution expressing the sense of the Congress that the heroism of the brave and gallant Puerto Ricans in the 65th Infantry Regiment of the United States Army who fought in the Korean conflict should be commemorated; to the Committee on Veterans' Affairs, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ARMEY:

H. Res. 397. Resolution electing Representative JAMES A. HAYES of Louisiana to the Committee on Ways and Means; considered and agreed to.

By Mr. ENGEL (for himself, Mr. GILMAN, Mr. NADLER, Mr. SAXTON, Mr. DEUTSCH, and Mr. McNULTY):

H. Res. 398. Resolution condemning the construction of a shopping center within the internationally protected zone around the Auschwitz death camp in Poland; to the Committee on International Relations.

By Mr. PAYNE of New Jersey (for himself, Mr. CHABOT, Mrs. CLAYTON, Mr. CONYERS, Ms. MCKINNEY, Mr. BEREUTER, Mr. OWENS, and Mr. WYNN):

H. Res. 399. Resolution expressing the sense of the House of Representatives with respect

to the promotion of democracy and civil society in Zaire; to the Committee on International Relations.

¶38.30 ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

- H.R. 28: Mr. SCHAEFER.
- H.R. 103: Mr. KLINK, Mr. DIAZ-BALART, and Mr. BRYANT of Texas.
- H.R. 294: Mr. FATTAH and Ms. PELOSI.
- H.R. 324: Mr. LUTHER and Mrs. CLAYTON.
- H.R. 452: Mr. DIAZ-BALART and Mr. STUPAK.
- H.R. 468: Mr. REGULA.
- H.R. 500: Mr. DICKEY.
- H.R. 528: Mr. TIAHRT.
- H.R. 820: Mr. GOODLING and Mr. TRAFICANT.
- H.R. 1023: Mr. DORNAN and Mr. LATHAM.
- H.R. 1119: Mr. SANDERS.
- H.R. 1171: Mr. MCCOLLUM and Mr. COX.
- H.R. 1297: Mr. QUILLEN.
- H.R. 1386: Mr. SCHAEFER, Mr. BONILLA, and Mr. BRYANT of Tennessee.
- H.R. 1406: Mr. SPENCE.
- H.R. 1492: Mr. WELDON of Florida.
- H.R. 1514: Mr. BATEMAN, Mr. COSTELLO, Mr. SMITH of Texas, Mr. MCDADE, Mr. PORTER, Mr. BARRETT of Nebraska, Mr. LEWIS of Georgia, Mr. TORRES, and Mr. ALLARD.
- H.R. 1552: Mr. FRELINGHUYSEN, Mr. BRYANT of Texas, Mrs. LOWEY, Ms. MCKINNEY, Ms. NORTON, Mr. CUNNINGHAM, and Ms. WOOLSEY.
- H.R. 1661: Mr. HOSTETTLER, Mr. GORDON, Mr. ZELIFF, and Mr. WELDON of Pennsylvania.
- H.R. 1662: Mrs. MEEK of Florida and Mr. CRAMER.
- H.R. 1684: Mr. PARKER, Mr. GEPHARDT, and Mr. ENGLISH of Pennsylvania.
- H.R. 1711: Mr. DOOLITTLE.
- H.R. 1802: Mr. BEILENSEN.
- H.R. 1953: Mr. BATEMAN.
- H.R. 1972: Mr. YOUNG of Florida and Mr. COSTELLO.
- H.R. 2011: Mr. BROWN of Ohio.
- H.R. 2019: Mr. HUTCHINSON.
- H.R. 2026: Ms. PELOSI, Mr. BEILENSEN, Mr. GINGRICH, Mr. MASCARA, and Mr. FALEOMAVAEGA.
- H.R. 2086: Mr. BEREUTER.
- H.R. 2087: Mrs. CUBIN.
- H.R. 2143: Ms. ESHOO and Mr. BERMAN.
- H.R. 2178: Mr. GEJDENSON.
- H.R. 2192: Mr. COSTELLO.
- H.R. 2193: Mr. PETE GEREN of Texas, Ms. MCKINNEY, Mr. FOX, Mr. FALEOMAVAEGA, Mr. BONILLA, and Mr. STENHOLM.
- H.R. 2247: Mrs. CLAYTON, Mr. FRANK of Massachusetts, Mr. FRAZER, Ms. ROYBAL-ALLARD, and Mr. WILLIAMS.
- H.R. 2250: Mr. RIGGS.
- H.R. 2391: Mr. SOLOMON and Mr. SHADEGG.
- H.R. 2400: Mr. SPENCE.
- H.R. 2421: Mr. TORKILDSEN, Mr. FLAKE, Ms. MOLINARI, Mr. QUINN, Mr. LAFALCE, and Mr. RANGEL.
- H.R. 2470: Mr. COBURN.
- H.R. 2489: Mr. BEILENSEN, Ms. BROWN of Florida, Mr. BURTON of Indiana, Mr. COBURN, Mr. FOX, Ms. EDDIE BERNICE JOHNSON of Texas, Mrs. JOHNSON of Connecticut, Mrs. LOWEY, Mrs. MALONEY, Ms. MOLINARI, Mr. OBERSTAR, Mr. PETRI, Mr. SMITH of New Jersey, Mr. TAYLOR of North Carolina, Mr. THORNBERRY, Ms. WATERS, and Mr. WELLER.
- H.R. 2548: Mr. PAYNE of New Jersey and Mr. BILBRAY.
- H.R. 2579: Mr. SPENCE.
- H.R. 2690: Mr. FOGLETTA, Mr. BERMAN, Mr. FALEOMAVAEGA, Mr. WATT of North Carolina, Ms. WOOLSEY, Mr. WAXMAN, Mr. NADLER, Mr. OBERSTAR, Mr. DAVIS, Ms. LOFGREN, and Mr. LUTHER.
- H.R. 2699: Mr. DICKS, Ms. JACKSON-LEE, Mr. FALEOMAVAEGA, Ms. NORTON, Mr. DOYLE, Mr. JEFFERSON, Mrs. CLAYTON, Mr. PAYNE of New Jersey, Mrs. MEEK of Florida, Mr. TOWNS,

- Mr. CLAY, Mr. THOMPSON, Mr. BISHOP, and Mr. CHABOT.
- H.R. 2727: Mr. HOSTETTLER.
- H.R. 2741: Mr. BURR, Mr. PACKARD, and Mr. MOORHEAD.
- H.R. 2757: Mr. PAYNE of Virginia, Mr. THORNBERRY, Mr. METCALF, and Mrs. CLAYTON.
- H.R. 2823: Mr. TRAFICANT, Mr. RIGGS, Mr. ACKERMAN, and Mr. ALLARD.
- H.R. 2875: Mr. WELLER and Mr. RANGEL.
- H.R. 2900: Mr. FIELDS of Texas, Mr. EVERETT, Mr. UPTON, Mrs. SMITH of Washington, Mr. BURTON of Indiana, Mr. RAHALL, and Mr. SCHIFF.
- H.R. 2919: Mr. LIPINSKI.
- H.R. 2922: Mrs. THURMAN.
- H.R. 2959: Mr. QUINN.
- H.R. 2986: Mr. VENTO, Mr. NEY, and Mr. HINCHEY.
- H.R. 3004: Mr. THORNTON and Mrs. CLAYTON.
- H.R. 3022: Mr. FRAZER, Ms. NORTON, Mr. HILLIARD, Mr. PAYNE of New Jersey, Mr. YATES, Ms. MCKINNEY, and Mr. PALLONE.
- H.R. 3030: Ms. WOOLSEY, Ms. MCKINNEY, Mr. HILLIARD, Mr. WAXMAN, Mr. TORRES, Mr. MATSUI, Mr. MORAN, Mr. DELLUMS, and Ms. LOFGREN.
- H.R. 3050: Mrs. CLAYTON.
- H.R. 3052: Mrs. LOWEY, Ms. NORTON, Mr. HILLIARD, Mr. FALEOMAVAEGA, Mr. DELLUMS, Mr. FROST, Mr. QUINN, Mr. FOX, Ms. MCKINNEY, Mr. FRAZER, Mr. BORSKI, Mr. FAZIO of California, Ms. LOFGREN, Mr. FARR, Mr. THOMPSON, Mr. WILSON, Mr. TORRES, Mr. GEJDENSON, and Mr. EVANS.
- H.R. 3067: Mr. DEFAZIO.
- H.R. 3079: Mr. KLECZKA.
- H.R. 3081: Mrs. CLAYTON, Mr. FARR, Mr. PAYNE of New Jersey, and Mr. FROST.
- H.R. 3089: Mrs. MORELLA, Mr. PALLONE, Mr. MATSUI, Mr. MILLER of California, and Mr. KLINK.
- H.R. 3104: Mr. ENSIGN and Mr. GENE GREEN of Texas.
- H.R. 3119: Mr. EDWARDS.
- H.R. 3130: Mr. EVANS and Mrs. CLAYTON.
- H.R. 3149: Mr. RAMSTAD and Mr. HERGER.
- H.R. 3152: Ms. WOOLSEY, Mr. RIGGS, Mr. FAZIO of California, and Mr. ROHRBACHER.
- H.R. 3170: Mr. MARTINI and Ms. MOLINARI.
- H.R. 3173: Mr. KILDEE, Ms. ROYBAL-ALLARD, and Mr. KLINK.
- H.R. 3177: Mr. KLUG, Mr. ROTH, Mr. PETRI, Mr. OBERSTAR, Mr. MILLER of Florida, Mr. BARRETT of Wisconsin, and Mr. FRANK of Massachusetts.
- H.R. 3195: Mr. GRAHAM and Mr. SPENCE.
- H.J. Res. 70: Mr. FRAZER.
- H. Con. Res. 47: Mr. DEFAZIO, Mr. MORAN, Mr. TOWNS, Mr. WELLER, and Mr. STOCKMAN.
- H. Con. Res. 95: Mr. WATTS of Oklahoma, Ms. PELOSI, and Ms. NORTON.
- H. Res. 30: Mr. PETERSON of Florida, Mr. BRYANT of Texas, Ms. WATERS, Mr. SCHIFF, Mr. SCHAEFER, Mr. KILDEE, and Mr. BECERRA.
- H. Res. 359: Mr. BARRETT of Wisconsin, Mr. RANGEL, and Mr. DELLUMS.
- H. Res. 374: Ms. DELAURO, Mr. GREENWOOD, Mrs. ROUKEMA, and Mr. MCCOLLUM.
- H. Res. 378: Mr. MANTON and Mr. LIPINSKI.
- H. Res. 385: Mr. BEREUTER.

¶38.31 DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

- H.J. Res. 159: Mr. GOSS.

**MONDAY, APRIL 15, 1996 (39)**

¶39.1 DESIGNATION OF SPEAKER PRO TEMPORE

The House was called to order at 12:30 p.m. by the SPEAKER pro tempore,

Mr. BARTON, who laid before the House the following communication:

WASHINGTON, DC,  
April 15, 1996.

I hereby designate the Honorable JOE BARTON to act as Speaker pro tempore on this day.

NEWT GINGRICH,  
*Speaker of the House of Representatives.*

¶39.2 MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Edwin Thomas, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

- On March 7, 1996:  
H.R. 2196. An Act to amend the Stevenson-Wylder Technology Innovation Act of 1980 with respect to inventions made under cooperative research and development agreements, and for other purposes.
- On March 12, 1996:  
H.R. 927. An Act to seek international sanctions against the Castro government in Cuba, to plan for support of a transition government leading to a democratically elected government in Cuba, and for other purposes.
- H.R. 3021. An Act to guarantee the continuing full investment of Social Security and other Federal funds in obligations of the United States.
- On March 15, 1996:  
H.J. Res. 163. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.
- On March 20, 1996:  
H.R. 2778. An Act to provide that members of the Armed Forces performing services for the peacekeeping efforts in Bosnia and Herzegovina, Croatia, and Macedonia shall be entitled to tax benefits in the same manner as if such services were performed in a combat zone, and for other purposes.
- On March 22, 1996:  
H.J. Res. 165. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.
- On March 26, 1996:  
H.R. 2036. An Act to amend the Solid Waste Disposal Act to make certain adjustments in the land disposal program to provide needed flexibility, and for other purposes.
- On March 29, 1996:  
H.J. Res. 170. Joint resolution making further continuing appropriations for the fiscal year 1996, and for other purposes.
- H.R. 3136. An Act to provide for enactment for the Senior Citizens' Right to Work Act of 1996, the Line Item Veto Act, and the Small Business Growth and Fairness Act of 1996, and to provide for a permanent increase in the public debt limit.
- On April 1, 1996:  
H.J. Res. 78. Joint resolution to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois.
- H.R. 1266. An Act to provide for the exchange of lands within Admiralty Island National Monument, and for other purposes.
- H.R. 1787. An Act to amend the Federal Food, Drug, and Cosmetic Act to repeal the saccharin notice requirement.
- On April 4, 1996:  
H.R. 2854. An Act to modify the operation of certain agricultural programs.
- On April 9, 1996:  
H.J. Res. 168. Joint resolution waiving certain enrollment requirements with respect to two bills of the One Hundred Fourth Congress.