

HOUSE OF REPRESENTATIVES—Tuesday, June 28, 1994

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mr. MONTGOMERY].

DESIGNATION OF SPEAKER PRO TEMPORE

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

WASHINGTON, DC,
June 28, 1994.

I hereby designate the Honorable G.V. (SONNY) MONTGOMERY to act as Speaker pro tempore on this day.

THOMAS S. FOLEY,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of February 11, 1994, and June 10, 1994, the Chair will now recognize Members from the list submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to 30 minutes, and each Member, other than the majority and minority leaders, limited to 5 minutes.

The Chair recognizes the gentleman from Florida [Mr. Goss] for 4 minutes.

ANOTHER WEEK IN HAITI

Mr. GOSS. Mr. Speaker, another week has passed and the President's Haiti policy is still producing all of the wrong results—including a large and growing price tag. Although we have never had a formal response to our requests for cost estimates on the Haiti operation, this week we finally learned some revealing details from the news media. We now know that it costs \$15,300 a day to fuel the U.S.S. *Comfort*—the hospital ship in Kingston, Jamaica—and the Coast Guard spends at least \$120,000 a day to run that ship as a processing center. We can add in \$12 million paid to Turks and Caicos for use of a beach, \$1.5 million to rent a cruise ship we never used, \$63,000 a day to rent two other cruise ships—and we still have not counted the costs of eight Navy ships; a dozen or so other Coast Guard cutters or the sanction enforcement teams in the Dominican Republic. When we add it all up, I suspect the price tag will seem staggering, even to the big spenders in the Clinton administration.

All this big money should be producing big results, right? Wrong. Other than big misery to innocent Haitian

victims and United States businesses seeking to boost productivity in Haiti, our sanctions are having little impact on the targets of Cedras and company. In fact, to the contrary, the military junta in Haiti is profiting from the embargo—enriching itself through the sale of contraband, often stolen from United States aid shipments. Aid workers are frustrated at every turn by the unintended consequences of the embargo, particularly the rapid deterioration of infrastructure. Much needed food and medicine spoils on the docks for lack of machinery and trucks to move them. We have seen the toll of such deterioration before—the distended stomachs, the reddish hair, the stick-like limbs—these are the signs of malnutrition we now see in two out of three Haitian children.

Desperate Haitians, drawn by the hope of the President's new offshore refugee processing, are taking to the seas in ever-increasing numbers. In this morning's paper we read that the idealists in the administration are belatedly awaking to the reality of the problem they have caused: "This is the surge that we had to worry about, the influx that swamps the system" said an administration official. With word getting out that the United States has upped its rate of positive asylum rulings from 5 percent to more than 30 percent of those applying, it is no wonder Haitians by the thousands are trying to make it to those processing ships. This month, the Coast Guard has intercepted more than 4,500, twice as many as we saw in May. In the end, if they cannot starve the Haitians into democracy the President and his "B team" of foreign policy advisors seem committed to forcing a democracy at the barrel of a gun.

If the embargo should be declared a failure, military intervention is clearly the President's contingency plan. Even the U.N. Special Representative on Haiti, Dave Caputo, concluded that United States policy toward Haiti is being driven by domestic political concerns. Last month Caputo said:

The Americans will not be able to stand for much longer, until August at the latest, the criticism of their foreign policy on the domestic front. They want to do something; they are going to try to intervene militarily.

We and others have tried to provide the President with a better way out of this stalemate. But all other views are being ignored. And that is a tragedy, for Haitians, and for Americans who may risk their lives in an ill-conceived military mission.

Mr. Speaker, we can do better; we must do better.

THE 50TH ANNIVERSARY OF LIBERATION OF GUAM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Guam [Mr. UNDERWOOD] is recognized during morning business for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, last Saturday, June 25, 1994, at Arlington National Cemetery, I sponsored a commemoration ceremony for the 50th anniversary of the liberation of Guam and the Battle of Saipan and other islands at the ceremony. This commemoration which took place at the Tomb of the Unknown Soldier is the only national commemoration held this year to recognize battles in the Pacific theatre during World War II.

Mr. Speaker, I am extremely grateful for the participation of Interior Secretary Babbitt, Navy Secretary Dalton, Chairman of the Joint Chiefs of Staff, General Shalishkavili. Their support, stirring words, and encouragement reflects the administration's growing awareness of these historical events.

But I must take note of the fact that the event was largely ignored by the media and by the Nation's leadership other than those mentioned. There is no effort to equate the magnitude of Normandy with the battles which took place 50 years ago in Guam and Saipan but while Normandy pulled the Nation's leadership across the Atlantic, the Pacific battles could not get many to cross the Potomac.

D-day has come to mean only Normandy in the minds of many. But I want the Members of this body to understand that there was more. Last week, I received a call from a veteran of the Pacific theatre. This veteran from Atlanta called me to thank me for the commemoration which we held last Saturday. And he reminded me that for the men who fought in the Marianas and all across the Pacific; every island was a D-day; Guadalcanal, Pelellu, Tarawa, Saipan, Guam, Iwo Jima. All of these were D-days which required the courage and commitment which the American soldier, marine, airman, and sailor always gave.

And there was something more here, especially in the case of Guam—my island. Guam was the only U.S. territory occupied during World War II which had people on it. In fact, it was the first time since the War of 1812 that

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

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

U.S. soil was invaded by a foreign power. And when the 3d Marines, the 77th Infantry, the 1st Marine Provisional Brigade stormed ashore, they were reoccupying, they were returning.

And this was not lost upon the marines and soldiers who cried at the sight of the people of Guam coming down from the hills and who were heartened by little children who held handmade American flags, imperfect in their design yet perfect in their meaning.

My people suffered terribly during the war; my own parents lost three children; there were random acts of cruelty; forced marches, forced labor, and acts of loyalty to America were met with fists, rifle butts, the bullet, and even the sword.

And in Saipan, the invasion was the first contact between the American Nation and the people of that island. This experience eventually led to the creation of the Commonwealth of the Northern Marianas, the only acquisition of territory engaged in by this country since the purchase of the Virgin Islands.

While the Guam and Marianas commemoration did not inspire the attention that other World War II commemorations did, it will remain amongst the most meaningful not only because of the bravery of the American military, but because of the bringing together of the spirit of freedom and liberty in the middle of the Pacific.

Freedom is a system based on courage, and there was ample support of this system by the exploits of the men in uniform and my island elders who were in rags. In their sacrifice, in their commitment, in their finest hour, we find the courage which has made our freedom possible.

And we must teach the lessons of this experience to all; it is entirely fitting that we lay a wreath at the Tomb of the Unknown Soldier to honor the experience and the story of Guam, a story largely unknown.

The commemoration of the Battle of Saipan took place on June 15 on that island and the commemoration of the Battle of Guam will take place on July 21. Let us all take the time to reflect upon the meaning of these battles for the Nation, and take the time to honor and recognize the veterans of the Pacific. They deserve more than they have received to date.

□ 1040

DRIFT AND DISORDER IN THE CLINTON FOREIGN POLICY—PART 2, TO INVADE OR NOT TO INVADE

The SPEAKER pro tempore (Mr. MONTGOMERY). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Nebraska [Mr. BEREUTER] is recognized during morning business for 5 minutes.

Mr. BEREUTER. Mr. Speaker, on May 24, 1994, this Member felt it necessary to come before this body, quite reluctantly, to express his deep concerns and misgivings about the lack of direction in American foreign policy. It is an erratic, flip-flop foreign policy which encourages international thugs and rogue regimes to conclude that America neither says what it means nor means what it says. They are thereby encouraged to have the view that there is precious little penalty for flaunting international norms of behavior.

Today this Member believes it necessary to elaborate on this concern, looking specifically at the Clinton administration's deep misunderstanding of the proper role and value of the military as an instrument of foreign policy. Indeed, it is when one looks at the Clinton administration's military policy that the disarray becomes most pronounced and more immediately dangerous.

Mr. Speaker, like most Americans, this Member was pleased when President Clinton, in his 1994 State of the Union Address, announced that "as long as I am President [our forces] will remain the best-equipped, the best-trained, and the best prepared fighting force on the face of the earth." Yet this was quickly shown to be a hollow promise, as each and every month our Armed Forces continue to cut 15,000 personnel, retire 1 ship, slash 37 primary aircraft from our inventory, and eliminate 1 combat battalion.

It also is clear that this administration intends to address its budgetary shortfalls by raiding much-needed defense programs. In addition to defense cuts that will total \$156 billion through fiscal year 1999, the defense budget also is being raided to pay for billions in nondefense initiatives such as environmental clean-up, our U.N. responsibilities, and cancer research. As a result, this Nation is headed down the perilous course to a hollow Army and a decommissioned Navy, the type of military establishment which would not allow us to adequately honor our treaty commitments and defend our people and national interests.

This gradual crippling of our military capability is particularly unfortunate, Mr. Speaker, because President Clinton and his advisers appear willing, and indeed, eager, to deploy U.S. Forces in a host of contingencies. This administration has already committed at least 25,000 ground troops to enforce a peace settlement in Bosnia—without any sign of congressional support. This administration has committed U.S. ground forces as part of a Middle East peace settlement. And, this administration was perfectly willing to retain United States Forces in Somalia far beyond the time when the original mission was fulfilled.

This Member is particularly concerned about the apparent willingness

of the Clinton administration to invade Haiti, by whatever guise and whatever name, as part of an effort to restore Jean Bertrand Aristide to power. Mr. Speaker, such an action would be the height of folly and, ultimately, an expensive disaster with long-term damage to our hemispheric relations. While the deployment of United States Forces in Haiti may address the near-term problem that President Clinton is experiencing with certain more restive elements of his coalition, this is precisely the sort of intervention that would haunt American policymakers for years, and perhaps decades, in the future. Our Haitian policy must not be set by the fastings of Randall Robinson.

Mr. Speaker, the question of whether or not the United States should become militarily engaged in Haiti is not even a close call. While this Member has no doubt our forces would face little military resistance to an invasion, we would then be forced to assume broad humanitarian and administrative responsibilities in an attempt to provide law and order, support the regime we will have reinstated, and protect President Aristide from his many enemies. This would be far more difficult than the Haiti hawks would have us believe. This Member would remind this body that the last time the United States became involved in Haiti, it took 19 years before we were about to extricate ourselves.

It is clear that there are powerful elements within the Clinton political coalition and the administration who see the U.S. Armed Forces as merely a tool to be used in this grand game called nationbuilding. And these master strategists are not in the slightest deterred by the fact that our military capability is being slashed well below the level dictated by elementary prudence.

The logical disconnect is mind-boggling, but it does not seem to have penetrated key elements in this coalition or the administration. We are reducing our Army by a battalion a month, we are reducing our Air Force by 37 aircraft a month, we are reducing our Navy by 1 combat vessel a month. Yet this administration is preparing to commit tens of thousands of troops to a very lengthy occupation, on a mission that is clearly misguided and which is not a vital interest to the United States.

Mr. Speaker, this Member is not an isolationist. This Member has supported and will continue to support the deployment of our Armed Forces when it is proper and necessary to do so.

For example, this Member strongly supports the deployment of troops in Macedonia to serve a deterrent against the spillover of the conflict in Bosnia. Indeed, this Member has urged the deployment of a full brigade rather than the reinforced company presently in Macedonia, and this Member has expressed his support for much more

forceful and responsive rules of engagement for those troops. This is clearly a situation where the vital interests of the United States are at stake.

But this Member will not support, and will not remain silent, as the Clinton administration plans to embark on a counterproductive and politically motivated military incursion in Haiti. President Aristide may have been democratically elected by the Haitian people, but he is not a democrat. Were we to bring about his return to power, we would also be responsible for his subsequent actions—and Mr. Aristide has a proven track record of extreme political violence. When Mr. Aristide resumes supporting arbitrary arrests and advocating necklacing of political opponents, as it clearly did, that too would be America's responsibility.

Mr. Speaker, military action in Haiti is not the national interest, and therefore will not be supported by the American people. By embarking on this course, President Clinton only reinforces the deep-seated belief that this administration's foreign policy is in a state of deep disarray.

THE VIOLENCE AGAINST WOMEN ACT

The SPEAKER pro tempore (Ms. CANTWELL). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from California [Ms. ROYBAL-ALLARD] is recognized during morning business for 2 minutes.

Ms. ROYBAL-ALLARD. Madam Speaker, the recent killing of Nicole Brown Simpson has focused attention like never before on the national epidemic of domestic violence. Now that public awareness is at an all-time high, the crime bill conferees have an unprecedented opportunity to report the Violence Against Women Act out of committee in its strongest possible form and help curtail an epidemic that is destroying the very centerpiece of our Nation; our families.

Although many of the facts of the Simpson case are not known at this time, we do know the system designed to protect families against violence failed the entire Simpson family as it has failed countless families throughout this country.

The story, unfortunately, is a familiar one:

Police who were called on numerous occasions did not pursue arrest.

Medical professionals who provided treatment did not intervene.

The judge who presided over the one court proceeding found the pattern of violence only serious enough to warrant a sentence of community service.

Now a young woman and an innocent bystander are dead, and two children will grow up without their mother, and possibly without their father.

In Los Angeles where Nicole Simpson was killed, there is one domestic vio-

lence homicide every 2½ days. Yet in the entire county of Los Angeles with a population of more than 9 million people, there are only 18 shelters for battered women, with only 250 available beds. Currently, two-thirds of the women who apply for shelter are turned away because there is no room.

We can and must do better for the women and children of America. It is imperative that the Violence Against Women Act be reported out of committee with its full funding.

The full \$1.8 billion in the Senate-passed bill will provide much-needed assistance to States and localities for police, prosecutors, women's shelters and community prevention programs, where it is most needed.

Madam Speaker, I am proud to be joined today by many of my colleagues who share my deep concern about domestic violence in America. The crime bill conferees must pass the Violence Against Women Act in its strongest form as a first step in providing the systematic support needed to break the cycle of family violence.

We cannot afford to fail the families of America.

We have waged wars and campaigns to make the world safe for democracy—we must now wage a campaign to make women and children safe in their own homes.

SUPPORT CONTINUED FUNDING FOR SPACE STATION PROGRAM

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Texas, Mr. SAM JOHNSON, is recognized during morning business for 3 minutes.

Mr. SAM JOHNSON of Texas. Madam Speaker, this week Congress will be voting on space station funding. Are we going to abandon America's future, or will we continue a legacy of leading the world into space? Does this Congress have the same courage and foresight that our predecessors had to bring us the growth, prosperity, prestige, and quality of life that Americans now enjoy, unprecedented and unmatched anywhere in the world.

We have a great investment in our space program. We can't just trash one of our society's greatest achievements. Achievements in space have inspired our children to excellence.

But now, we are in danger of having an entire generation grow into adulthood without turning the dream of stepping out of the bounds of Earth's gravity into reality. An entire generation or more; think of it.

We all know the space program's contributions have touched all aspects of our modern life. New technologies, new products, new jobs, and economic growth have been a direct result of our space program.

It has contributed to timely and accurate breast cancer detection, highly

advanced air and water filters, improved engine lubricants, lightweight composites, high-technology lasers robotics, and even improved shock absorption in athletic shoes.

Our achievements in space have also contributed to America's stature in the world.

No other nation on earth can even come close to matching our accomplishments. And now with strong partners in Russia, Europe, and Japan, we have the knowledge, the resources, and the ability to reach our next goal in space—completion on the space station.

Budget cutting is the only argument that space station opponents have. I want my colleagues to reach back in time to a previous Congress' courage and look to the future in the same manner. And it is with that awareness that I urge everyone to make the tough choice, a visionary choice like the one made 25 years ago that put American astronauts on the Moon.

It is for our kids; it is for our America.

It is the right time. It is the right choice, to fully support continued funding for the space station program. It is an investment in America's future. It is the future of planet Earth.

□ 1050

DOMESTIC VIOLENCE PREVENTION

The SPEAKER pro tempore (Ms. CANTWELL). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Oregon [Ms. FURSE] is recognized during morning business for 2 minutes.

Ms. FURSE. Madam Speaker, when people in America think of violent crime, they often think of gang members killing each other over turf wars. Unfortunately, violent crime is prevalent in American homes.

Domestic violence is a problem that potentially strikes all women, whether they are rich or poor. It makes the place that should be safe—their own home—unsafe. The House and Senate must complete work on the conference of the Violence Against Women Act to begin to address the problem of family violence in our communities.

Last year, in the city of Portland, OR, domestic violence claimed the lives of 22 people. Three babies were killed by their parents, three men were killed for intervening in a domestic dispute, three men killed themselves after killing a partner or family member, a woman who feared for her own life killed her boyfriend, and 12 women were murdered by their husbands, their boyfriends, former partners or family members.

The House and Senate have passed the Violence Against Women Act as part of the crime bill to address the problems our communities face in dealing with violence in the home. One of

the provisions of the Violence Against Women Act is my own Domestic Violence Community Initiatives Act which will assist communities in bringing together the shelters, law enforcement, religious organizations, health care providers, teachers and principals to develop a coordinated community response to the problem. Because the problem of domestic violence involves so many different aspects of our society, only a coordinated approach can produce truly effective solutions.

It's time we make domestic violence prevention a priority. We can prevent these horror stories and help make homes a safe place, a haven once again.

A CALL FOR SOLUTIONS TO DOMESTIC VIOLENCE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Maryland [Mrs. MORELLA] is recognized during morning business for 2 minutes.

Mrs. MORELLA. Madam Speaker, I am pleased to join my colleagues this morning for this special order or morning hours.

Whether walking alone down city streets late at night, driving to work in quiet suburban neighborhoods, or even home alone with their loved ones, for women and girls in America, violence is an everyday fact of life.

In this country, every 5 minutes a woman is raped, every 15 seconds a woman is beaten by her husband or companion, and every year 4,000 women are killed by their abusers. Street and domestic violence costs our Nation 5.3 billion health care dollars annually. More than 30 percent of women in emergency rooms are there because of domestic violence, and more than 60 percent of the women in mental health wards are there because of ongoing abuse.

The Violence Against Women Act, now before a House-Senate conference committee, must be passed promptly and funded fully.

For almost 2 weeks, the country has been riveted by the story of one woman victimized by a police force, a court system, and a society that looked the other way. Her terrible story is typical however, of many American women who would rather walk down dark city streets at night than stay at home with their loved ones.

Congress has an opportunity to begin to change all that—to help prevent the battering of 4 million American women and to protect the 3.5 million children who witness these attacks every year.

VAWA will help fund a national domestic hotline, more emergency shelters, and community education programs; provide training for police and for judges; provide for the interstate enforcement of orders of protection; and provide help for battered immi-

grant women. It will declare crimes of violence committed because of gender to be civil rights violations.

VAWA unequivocally sends the message that domestic violence, rape, and sexual assaults are crimes that we will not tolerate in our society.

DOMESTIC VIOLENCE

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from North Carolina [Mrs. CLAYTON] is recognized during morning business for 2 minutes.

Mrs. CLAYTON. Madam Speaker, domestic violence is the most common form of violence, yet it is the least reported crime. Domestic violence results in more injuries which require medical treatment than rape, auto accidents, and muggings combined. This is a problem that knows no boundaries. The majority of domestic violence victims are women—women of all ages, all races, all income, and all education levels.

Domestic violence has reached epidemic proportions in the United States, women not only have to fear for their safety on city streets, but also in their own homes. In the very place they should feel safe. Yet daily there are women killed in their homes by a spouse or partner they love and trust. I ask you why then it takes the death of the wife of a national celebrity to bring this issue to the forefront. Is one life more precious than another?

This is not a new problem in our society, but one which is finally obtaining the national attention it deserves. We have come a long way from the days a woman was told by friends and family, law enforcement agencies, and even clergy that she must be doing something wrong to provoke such irrational behavior. But we have an even longer road to go.

We as lawmakers must show women that they do not stand alone, that we are making strides to give back their safety and their lives. H.R. 1133, the Violence Against Women Act is just that kind of legislation. I cosponsored this legislation and I want to see it passed into law. I want to see more rigid enforcement and sentencing of abusers. I want to see additional funding for programs for victims of sexual assault and domestic violence. I want to see the courts treat these women like victims, not like criminals. I want to see a national toll-free hotline funded which will provide assistance to these victims. I believe in H.R. 1133 and I know that it will make a difference.

We must give these women hope; we must show them they are not alone and that we care. This bill will empower women by letting them know that finally the law is on their side.

□ 1100

HEALTH CARE REFORM WITHOUT EMPLOYER MANDATES

The SPEAKER pro tempore (Ms. CANTWELL). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Michigan [Mr. KNOLLENBERG] is recognized during morning business for 5 minutes.

Mr. KNOLLENBERG. Madam Speaker, I rise today to discuss one of the most disturbing aspects of the Clinton health care plan: employer mandates.

There is almost universal agreement that a mandate will cost thousands of American jobs. Even Laura Diandria Tyson who is President Clinton's Chief Economic Adviser admits that some 600,000 jobs will be lost under the Clinton plan as presently drafted. In fact, some studies show that as many as 3.8 million jobs could be lost.

The fact of the matter is that in this time of increasing regulatory burden for small businesses, mandates could very well be the "straw that broke the camel's back" and sends the U.S. economy into recession.

In a publication from the Heritage Foundation, Robert Moffit, I think, captures the essence of an employer mandate,

Any mandate on employers to provide health insurance necessarily adds to the labor costs of firms that do not now offer health insurance or that offer a package less generous than the mandatory plan. Increased labor costs necessarily translate into higher prices for consumers for goods and services in the general economy or reduced compensation for employees in the form of wages or other benefits.

Depending on the size and the resources of the firm, the increased labor costs will translate directly into lower wages or job loss.

What is interesting about universal coverage is that in areas where it has already been implemented it still only covers 91 or 92 percent of the population. In my State of Michigan, we have already covered 91 percent of the population. Therefore, the employer mandate would do nothing for my constituency but cost jobs.

There is also a question of subsidies to small businesses. Where is this money going to come from? How much will these subsidies cost 10 years from now? And, how much time and effort will entrepreneurs have to devote to obtain these subsidies?

Above all that, there is something inherently unsettling about the thought of employers having to go to the Government to beg for money.

I think that everyone in Congress who favors a mandate needs to visit the businessowners in their districts—and see how many of them struggle daily with the burden that the Government places on them. Then they should ask themselves, "do we really need to put the Government into another facet of the American business sector?"

Maybe we can just enact reform to our system of insurance on which there is wide bipartisan agreement and give it a couple of years and reevaluate them.

Let us do it—but let us do it right.

I believe that this is a prudent course and I urge my colleagues to consider it. The American people want health care reform, but they want it done right.

VIOLENCE AGAINST WOMEN

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from California [Ms. WOOLSEY] is recognized during morning business for 5 minutes.

Ms. WOOLSEY. Madam Speaker, it is time for this Nation to take violence against women seriously, not just when it hits the evening news, but every day that this American tragedy continues.

Madam Speaker, acts of domestic violence occur every 18 seconds. Battering is the single major cause of injury to women; more frequent than car accidents, muggings, and rapes combined. Six million women are beaten each year by their husbands or boyfriends. Four thousand of them are killed.

Most of the time, these cases do not make headlines, but they are just as tragic and intolerable as those that do.

Madam Speaker, we know what to do. We must enact the violence against women act. To help stop the horror of crime aimed at women.

The Violence Against Women Act provides funding to aid policy, prosecutors, women's shelters, and community prevention programs. It is a comprehensive approach that is both tough on criminals and smart about crime prevention.

The Violence Against Women Act is now in conference committee as part of the crime bill. In the wake of the Nicole Simpson murder case, women across America are raising their voices about domestic violence and violence against women. Here in Congress, we must join this effort and raise our voices about the importance of final passage of the Violence Against Women Act—without weakening changes or reductions in funding.

We owe it to the millions of domestic violence victims across this Nation. Let us resolve never to be silent, never to let this issue out of the limelight, until women and girls—and all Americans—are safe once again.

INFORMING MEMBERS OF UPCOMING SOCIAL SECURITY TASK FORCE HEARING

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Wisconsin [Mr. ROTH] is recognized during morning business for 5 minutes.

Mr. ROTH. Madam Speaker, I rise to inform my colleagues about a Social Security task force hearing tomorrow morning at 11 a.m. I invite every Member who wants to strengthen our Social Security system to attend. The hearing's topic is the long-term security of the Social Security trust fund, a topic of vital interest to every American who is counting on a secure income during retirement. Without a stable Social Security system, today's workers and retirees face an uncertain future.

A future in which their retirement income is in jeopardy; 42 million senior citizens rely on their Social Security benefits to buy groceries, medication, and pay the bills.

Each year, millions of additional Americans retire and begin collecting the benefits they earned and planned for.

Congress needs to take bold steps to guarantee that their Social Security checks do not bounce some day in the future.

According to the Social Security trustees, that doomsday—the year the Social Security system goes bankrupt—moves closer and closer every year.

The latest trustees report predicts our Social Security system will become insolvent in the year 2029.

Only last year, the trustees report predicted the Social Security trust fund would be solvent until 2036.

That means in the past 12 months, the Social Security insolvency date advanced 7 years. And some independent analysts say the insolvency date could come even sooner. If Congress does not put Social Security's fiscal books in order, we will be mortgaging our children's future.

That is why Congress needs to stop spending the surplus funds that Social Security collects every year.

This year, for instance, Social Security will take in \$59 billion more than it pays out. Every penny of that surplus will be spent by the Government on non-Social Security programs.

In other words, every week the big spenders in Congress spend more than a billion dollars of the people's Social Security money on other government programs, from food stamps to foreign aid. It is time for Congress to stop misusing the trust fund.

Social Security is not a piggy bank to be raided by the big spenders in Congress. Social Security funds must be used for Social Security purposes only.

Tomorrow's hearing will help this task force learn more about these issues. Additionally, we will explore ways to ensure the long term solvency of the Social Security trust fund, both for today's seniors and today's workers.

Eight expert witnesses will share their ideas and answer our questions.

Our witnesses include seniors advocates, a former Social Security Com-

missioner, an actuary, a taxpayers' advocate, and a representative for the Social Security Administration.

Madam Speaker, I urge Members to attend this hearing and help me work toward a fiscally sound Social Security system. We owe it to today's seniors, and to their grand children.

URGING THE STRONGEST POSSIBLE VERSION OF THE VIOLENCE AGAINST WOMEN ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from New York [Mrs. MALONEY] is recognized during morning business for 2 minutes.

Mrs. MALONEY. Madam Speaker, this morning, I rise in support of the strongest possible version of the Violence Against Women Act.

Violence against women is one of the most horrendous and neglected problems facing our country. The men who batter 4 million women each year are often treated with a wink and a nod. This is intolerable and we must not stand for it.

Of 178,000 radio calls relating to domestic disputes in New York City, less than 7 percent result in arrests.

There is no difference between assaulting one's spouse and assaulting a stranger. The bruises are the same. The black eyes are the same. And the penalties ought to be the same.

Beating up a stranger gets you jailed. Beating up a wife gets you therapeutic treatment. We are no longer willing to coddle the batterers.

They must know that if they abuse their partners, they will be behind bars. It is unfortunate that it took a celebrity murder to bring this issue back to the Nation's attention.

If we can pass this bill, maybe we can protect the next Nicole Simpson from the actions of an abusive spouse. Domestic abuse is no longer a family matter.

A FAILED DRUG STRATEGY

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from New York [Mr. GILMAN] is recognized during morning business for 5 minutes.

Mr. GILMAN. Madam Speaker, across the country, students have been taking their exams and receiving their grades for the school year. Here in Washington, mid-term exams for the Clinton administration will be held in November.

As a cofounder and vice chairman of the former Select Committee on Narcotics, I regrettably would have to give the Clinton administration a failing grade on narcotics if it were in my classroom. Let's look at the administration's record.

ON LEADERSHIP

The President and his Cabinet have been virtually absent from the war on drugs. An on-again off-again approach has permitted Congress to cut many of the vital anti-drug budgets without any significant executive protest.

Moreover, Madam Speaker, the administration abruptly ended intelligence sharing with Peru and Colombia—undercutting our interdiction of cocaine and leaving our allies in those countries furious—only to reverse course after an uproar in the Congress.

In Burma, heroin production is soaring but the administration has no comprehensive strategy to deal with it. Leadership gets a grade of "F."

WITH REGARD TO INTERDICTION

There are five major components in our war against drugs—eradication; interdiction; enforcement; education; and treatment and rehabilitation. All must be pursued simultaneously; none can be cut in favor of any other.

In addition to cutting off narcotics intelligence to Peru and Colombia—where the administration has belatedly admitted that drug flights have increased—they have sought to cut millions from overseas interdiction programs.

Reducing our interdiction efforts overseas inevitably leads to more and cheaper drugs on the streets of our cities. The administration gets an "F" for interdiction.

WITH REGARD TO COMMUNICATION

The President has communicated the wrong message on drugs. No opposition was voiced when the Department of Education's budget for safe and drug-free schools was suddenly cut.

The President has been silent while Dr. Joycelyn Elders—Surgeon General of the United States and the Nation's top public health official—has spoken openly and repeatedly in favor of studying the legalization of drugs.

In a recent interview in USA Weekend Magazine, she said the President told her, quote: "I keep up with you by everywhere you go and what you've been doing. I love it." Close quote. An "F" for communication.

IMPACT ON CRIME

The Administrator of the Drug Enforcement Agency estimates that illegal drugs account for one-third of the Nation's violent crime and half of the murders.

Putting more police on the streets of our cities under the proposed crime bill will have little effect as long as interdiction efforts overseas are neglected. More and cheaper drugs available means more abuse. The connection between abuse and crime and violence is well established.

The administration's impact on crime gets an incomplete grade because drug policy failures in other areas cannot yet be fully evaluated.

Illicit drugs add billions to our health care costs, such as caring for

crack babies, drug treatment programs, the spread of HIV by needles, and the loss of productivity.

By neglecting the battle against illegal drugs, the President is undercutting the very cost savings he seeks through health care reform. Another incomplete grade on health care costs because they cannot yet be fully evaluated.

Madam Speaker, so far the Clinton administration has failed in its narcotics efforts. In so doing, it has left the American people more exposed than ever to the ravages of illicit drugs.

The administration has a lot to do to earn a passing grade in the November midterms.

□ 1110

FEEL THEIR FEAR

The SPEAKER pro tempore (Ms. CANTWELL). Under the Speaker's announced policy of February 11, 1994 and June 10, 1994, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 2 minutes.

Mrs. SCHROEDER. Madam Speaker, first I want to thank the gentlewoman from California [Ms. ROYBAL-ALLARD] for putting this together. She has had great leadership in dealing with domestic violence issues in the State of California, and she is bringing that here to the Congress, and I am honored to join my other colleagues in coming to the floor to talk about how important it is to have the strongest possible version of the Violence Against Women Act in the crime bill when the conferees meet.

Madam Speaker, domestic violence is the leading public health and safety problem facing American women. For the 3 to 4 million women who are battered in their homes every year, an ever intensifying cycle of violence is their day-to-day reality. A reality, which until recently has been largely ignored.

Domestic violence generates tremendous costs to society. More than 1.5 million battered women seek medical treatment for their injuries each year, costing \$45 million in annual medical costs, and at least 175,000 days of absenteeism a year. In at least 50 percent of these homes the children are battered too.

For the victims, domestic violence is a life or death matter. One third of female homicide victims are killed by their husbands or boyfriends. The Violence Against Women Act is now in conference. To illustrate the dimensions of the problem, the members of the Congressional Caucus for Women's Issues will be reading the names of individuals who have lost their lives in domestic violence related incidents until the conference is finished. This list is by no means complete. Many States do not keep statistics on domes-

tic violence-related homicides. We do know, however, that these lists will continue to grow unless we act.

COLORADO 1993

February 4, 1993: Pamela, 27, shot by ex-boyfriend in her living room. Children found mother dead.

February 16, 1993: Wade, 28, and Roy 60. Estranged husband shot wife's boyfriend. Threatened to kill his wife as well. Then shot himself.

March 1, 1993: Patricia 35, Dale 42. Dale shot Patricia then shot self. They had a history of domestic violence and two kids.

THE RUSSIAN MAFIA

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994 and June 10, 1994, the gentleman from California [Mr. ROYCE] is recognized during morning business for 3 minutes.

Mr. ROYCE. Madam Speaker, I rise today to address an issue of critical importance to our national security, to our foreign policy, and indeed, to our domestic tranquility. That issue is the growing threat of international organized crime, specifically, that emanating from within the former Soviet Union.

In recent weeks, we have heard from a large number of administration witnesses—the FBI Director, the CIA Director, and other experts on this growing problem.

We have also heard from Russian parliamentarians who have seen colleagues in Parliament, and other elected offices, gunned down by the new Mafia. President Yeltsin himself has warned that, in his words, "Russia has become a superpower of crime;" and that the corruption in ministries and law enforcement agencies "is extraordinarily dangerous for the nation."

Our newspapers have focused on this issue, and so have our constituents who have tried to do business there.

I believe it is important to take a few moments this morning to bring some of the highlights to the attention of our colleagues who might have missed some of these recent hearings. The statistics are awesome.

Director Woolsey testifying yesterday quoted the Russian Ministry of Internal Affairs to the effect that a majority of Russia's 2,000 banks are controlled by organized crime; he also stated that Russian criminal gangs operate in 29 countries, including the United States; murders have increased 47 percent in the past year, largely attributable to the Russian Mafia; and, Yeltsin says that 60 percent of all Russian companies are Mafia-infiltrated.

In Los Angeles alone, Russian organized crime has netted an estimated \$1 billion in health-benefits fraud cases. Similar stories emanate from New York, and other large cities.

According to the International Security Subcommittee's report, criminal

groups in the former Soviet Union transferred \$7 billion to Germany in 1992 alone; this exceeds the total of all United States aid to the region since 1990.

The main areas of threat are the illicit export of drugs and weapons—both conventional and unconventional—the smuggling of nuclear materials and technologies, and the support of international terrorism and rogue regimes.

Linking all of these is the increasing Mafia control of the Russian banking and financial transactions business. Put it all together and you have an over arching threat of instability created by the combination of these threats.

Internationally, alliances are developing, on a scale never seen before, between drug syndicates, financial swindlers, commodities thieves, arms dealers and shadowy political movements—all devoid of ideological or national loyalties.

In a vicious circle that threatens to outstrip the abilities of our police and intelligence agencies to monitor and counter, international gangs contract to kidnap industrialists for ransom or to pilfer nuclear weapons, to earn money for terrorist groups who in turn strive to overthrow democratically elected governments, so that drug kingpins can be sprung to freedom.

No longer scenarios from a Tom Clancy novel, these things are happening around the world today.

These concerns are very real, the danger is very present. I would urge this administration to redouble its efforts to identify and isolate these criminal elements, and to assist the democrats within the Russian Government in bringing these elements to justice.

As Director Woolsey implied, the model for comparative analysis of this criminal aspect is the KGB and its sister organs in the old Soviet Union. He noted yesterday that as we look now at some of these new organizations, in and out of the State, we see the old familiar elements.

My view is that rather than cutting back on the capacity of our intelligence community to deal with this challenge, we should realize its unique capacity and benefit from it.

We should also recognize that the complexity of the problem threatens each of our crosscutting aims of democracy, nonproliferation, and regional stability.

Democracy cannot prevail, markets cannot grow, and human and civil rights cannot be upheld in the face of such overwhelming and corrupting criminal activity.

Our aid should be conditioned on assurances from both Russia's Government, and our own, that all is being done that can be done in respect to monitoring and countering the growing threat of these crime syndicates before

they can choke off the infant democratic experiment in the former Soviet Union. Many Russians are struggling against this menace daily and deserve our support.

In closing I want to stress that this is not just about crime in Russia, or marginal changes in our aid package—this is about countering a real threat to the chances for a successful transition in the former Soviet Union, and it is about stopping an international crime wave before it crests on our own shores, and, before it goes nuclear.

I would suggest that these thugs are of a different magnitude than those in Haiti with whom the President and his administration seem so obsessed, and I hope the President will find the wherewithal to deal with them more effectively.

De Toqueville reminded us that no time is as dangerous as the time of regime transition. We must be sober and vigilant about the challenges facing Russia, and the United States, during the transition; indifference and indecision will only encourage the anti-democratic forces at a time when they need our attention and support.

American University expert Louise Shelley has warned of a dim alternative to democracy in Russia if we fail:

*** the pervasiveness of organized crime may lead to an alternative form of development—political clientism and controlled markets. The control will come from the alliance of former Communist Party officials with the emergent organized crime groups . . . groups that currently enjoy the preponderance of capital of the post-Soviet states.

Finally, I commend to my colleagues an excellent article on these matters in the European edition of the Wall Street Journal entitled: "Russia's Biggest Mafia is the KGB" by Dr. Michael Waller, which is attached to my statement, as follows:

RUSSIA'S BIGGEST "MAFIA" IS THE KGB

(By J. Michael Waller)

In partnership with the Russian government, the West is launching another Great Crusade: A mutual flight against organized crime. While stopping the spread of criminal syndicates from the former Soviet Union into Western Europe, Asia, and the Americas may well require cooperation with Russian authorities, such cooperation is fraught with dangers. Russia's organized criminals are not only rogue elements battling the authorities. In many, many instances, they are the authorities themselves.

The core of Russia's own battle against organized crime is the Federal Counterintelligence Service, the re-named internal security organs of the former KGB. Paradoxically, ex-KGB operatives also happen to be at the core of Russia's organized criminal underworld, with a grip on a great deal of business activity.

This should not be surprising. Since the Soviet secret police were founded in 1917 as the Cheka, they have acted as agents of corruption for the country's nomenklatura ruling class. As the Bolsheviks consolidated power, the "Chekists" made house-to-house searches, stealing everything of value and

stockpiling it in warehouses where the items were catalogued and ultimately distributed for use by the nomenklatura, or sold abroad for hard currency. They then set up and operated big trading houses in the West.

In more recent years, the KGB procured contraband for the ruling elites, laundered Communist Party funds through investments in the West, smuggled narcotics from Central Asia to Europe, trafficked in weapons large and small, rubbed out opponents around the world, and engaged in bribery, blackmail, and extortion at home and abroad. It had sole authority to penetrate law enforcement and the armed services, a power that could either end the careers of police and military officers, or enhance them in exchange for cooperation.

THE ULTIMATE MAFIA

The KGB had vast banks of information at its disposal: files on millions of individuals, political and financial data, a global information-gathering and analysis operation staffed by some of the world's brightest minds, and a network of enforcers to match. Backed by the Soviet superstate, with branch offices in every town of the U.S.S.R. and nearly every country in the world, the KGB was the ultimate mafia.

As the Soviet Union collapsed, that mafia unshackled itself from the few civilian controls over it and began taking advantage of the opportunities opened up by privatization and the emergence of a market economy. It buttressed its political independence with the unmatched power to move money into and out of the country.

When Mikhail Gorbachev abolished the Communist Party's monopoly of power, the KGB rushed in to fill the political void as well. Prior to the 1991 elections for the Congresses of People's Deputies in Russia and the other Soviet republics, the KGB set up a special task force to organize and manipulate the electoral processes. It held political organization training courses for favored candidates, arming them with privileged information about their constituencies' problems, needs and desires. Admitted KGB officers, some 2,756 in all, ran in races for local, regional and federal legislatures across the U.S.S.R.; 56% won in the first round, according to a KGB internal newsletter.

The trends are similar in Russia's booming business community. Radio Liberty's Victor Yasanna reports that during perestroika, it was the KGB and the Komsomol that established the first stock and commodities exchanges, "private" banks, and trading houses through which the Soviets' strategic stockpiles of minerals, metals, fuel and other wealths were sold. The West would not allow the Soviets to damp these reserves on the open market for fear of depressing world prices, so the KGB took the alternative route of selling through organized criminal channels to get the hard currency Moscow desperately needed.

These networks were facilitated by the strategic placement of support personnel abroad. KGB Chairman Vladimir Kryuchkov's son, as station chief in Switzerland, was implicated by a parliamentary commission in a scam to bank fortunes in hard currency for the KGB and Communist Party leaders and their families. The son of former Soviet Prime Minister Valentin Pavlov, who worked in a Luxembourg bank, was implicated in the same scandal. Even as the Russian government went through the motions of tracking down such monies, foreign intelligence chief Yevgeny Primakov blocked the parliamentary investigations from looking further, and the matter was forgotten.

Meanwhile, Western businessmen who flocked to Russia actively pursued current and former KGB officers as business partners. The law at the time required all foreigners to have a Russian joint partner. A 1992 report in the Russian newspaper *Gelos* concluded that 89% of all joint ventures involved KGB officers. They occupy top positions in nearly 100% of all state and semi-state enterprises, where a deputy director's position traditionally has been reserved for a ranking KGB officer.

For Western businessmen, employing or otherwise retaining KGB men had distinct economic advantages. KGB officers and veterans are a tightly knit fraternity with unmatched access to inside information, personal contacts, and other mechanisms to get things done, including paying off bureaucrats and high-level officials. Few contracts in Russia have any legal basis, and the smothering bureaucracy makes special favors from the KGB a necessary component of successful business ventures. Some Western businessmen even justified their new partnerships by reasoning that helping turn secret policemen and spies into entrepreneurs would promote Russian reform.

These businessmen were wrong. Honest security officers suffered professionally for bringing cases of high-level corruption to President Yeltsin's attention. According to a former KGB general, Mr. Yeltsin's internal security chief, Viktor Ivanenko, "tried to tell the truth about certain colleagues to President Yeltsin, but he was ousted."

President Yeltsin authorized a new status called "active reserve" so that secret police and spies could go into business while in government service with all due privileges. No conflict of interest laws exist to stop massive organized corruption from taking place legally. The distinction between private enterprise, racketeering and the security services is now officially erased.

The largest and most visible symptom of the Chekists' new influence is the gigantic "Most" financial and construction group. Most's business strategy has been to hire between 800 and 1,000 former KGB and interior ministry officials to serve as analysts, dealmakers and enforcers, according to ex-KGB officials interviewed in Moscow. The firm's analytical department, which acts as the principal advisory body to CEO Vladimir Gassinsky, is headed by former KGB First Deputy Chairman Filipp Bobkov, once the right-hand man of KGB Chairman Kryuchev and a vocal supporter of the August 1991 coup attempt. Mr. Bobkov's department includes 80 KGB veterans, including former KGB Chairman Viktor Chebrikov, who advocated sending democratic activists to psychiatric hospitals; B.S. Shulatenko, who was in charge of the political police in Ukraine; and former head of the KGB's dissident-hunting unit for the entire Soviet Union, Gen. Ivanov, whose first name is a subject of some mystery.

The Most conglomerate is widely reported to be attempting to buy the loyalty of members of parliament who have opposed the Chekists. The company is also creating a media empire to influence public opinion, reaching out to young professionals who strongly support Western-style reform. In partnership with the Stolichny and National Credit banks, Most is a major backer of a new daily newspaper, *Segodnya*, and the popular Independent Television Network (NTV). Just a year old, *Segodnya* has a daily circulation of 100,000, while NTV reaches 40 million viewers. Both media cartels are politically quite liberal, but not to the extent of criticizing the activities of Most itself.

INFORMATION HIGHWAY ROBBERY

A new threat to legitimate businesses in Russia and the West is the Federal Agency by Government Communications and Information, known by its Russian initials as Fapsi, which comprises the high-tech units of the former KGB. Responsible for most forms of electronic spying, Fapsi is on the verge of taking control of Russia's telecommunications lines. A recent decree by deputy counterintelligence director Andrei Bykov, a 26-year veteran of the KGB technical operations department, placed all telephone switchboards and their electronic equivalents at the disposal of the security services. The decree ordered that each telecommunications transit point be equipped with eavesdropping devices.

Traditional-style gangsters also have gained power in Russia. Otari Kvantrishvili, a notorious Moscow mafioso who was assassinated in April, had positioned himself so well that, in the words of *Moscow News*, he "could successfully settle conflicts between Moscow officials, financiers, and representatives of the underworld."

According to the State Duma's committee on security, 80% of all enterprises are engaged in corruption, and up to 50% are controlled by organized crime syndicates. What has emerged from Russia's great economic reform is a huge parastatal system dominated by the former KGB, the bureaucracy and nomenklatura and organized crime. Before the West commits to help Russia fight mafia activity with tradecraft and intelligence, it must first find institutional partners there that are clean.

□ 1120

DOMESTIC VIOLENCE

The SPEAKER pro tempore (Ms. CANTWELL). Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentlewoman from Connecticut [Ms. DELAURO] is recognized during morning business for 2 minutes.

Ms. DELAURO. Madam Speaker, as tragic as any one high-profile, domestic violence case may be, the truth is 2 million women in the United States are beaten by their partners every year—that's one woman beaten every 16 seconds. In my home State of Connecticut and nationwide, violence by male partners surpasses automobile accidents, muggings, and cancer deaths combined as the leading cause of injuries for women between the ages of 15 and 44. Clearly an epidemic of domestic violence is plaguing our Nation.

Domestic violence is not a family matter, it is a crime. And we have a responsibility to address it, as we would any other crime. We need to invest in smart prevention and tough punishment programs. We have a responsibility to create and fund effective prevention programs, to provide services to victims of domestic violence and to stiffen penalties so that domestic abusers are punished and serve time behind bars. That is what the Violence Against Women Act is all about.

The Violence Against Women Act contains the most ambitious and com-

prehensive proposals this body has ever passed regarding domestic violence. It will provide millions of dollars to State and local governments; it will help implement mandatory arrest programs and training programs for police and prosecutors; it will create a national toll free hotline to assist victims of domestic violence; and it will make interstate stalking and domestic violence a Federal crime.

These programs and penalties are ones that experts and victim advocates have been recommending for years. Their inclusion in the crime bill sends a strong message that Congress recognizes domestic violence as criminal and as the worst kind of violence because it is perpetuated against those who are the most vulnerable—women and children.

Madam Speaker, I urge the conference committee to send us a final bill that includes the Violence Against Women Act, so we can send it onto the President for his signature. If ever there was a time to make a difference in the lives of those victimized by domestic violence and to do something about preventing it, the time is now—while the Nation is watching. Let us not miss this crucial opportunity.

TIME FOR AN HONESTY CHECK

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Texas [Mr. SMITH] is recognized during morning business for 3 minutes.

Mr. SMITH of Texas. Madam Speaker, late last week President Clinton attacked radio talk show hosts for being too critical of his administration. This is strange behavior for someone who can generate news at will, who consistently receives favorable treatment by the big three network news programs, and who is supported by the largest daily newspapers in the country.

Maybe President Clinton wants a monopoly on media coverage just like he wants Government to have a monopoly on health care.

In his effort to stifle criticism, what Mr. Clinton may be overlooking is that the trust of the American people and the respect of political opponents must be earned.

Most Americans would agree that to earn their trust a President should possess a sense of honesty, a basic ability to tell the truth. Most Americans and even the media would forgive occasional lapses. To many citizens, though, the lapses of this President have become part of a pattern of behavior that began years ago and continues today.

A few recent examples might explain why the media have not been unanimous in extolling President Clinton:

He pledged a tax cut during the Presidential campaign. Instead, he delivered the largest tax hike in history.

He vowed to "shut down" the special interest money machine. Instead, he has helped raise \$40 million to keep the old machine running smoothly.

He promised to "end welfare as we know it" in 40 percent of his campaign speeches. What he has proposed will cost \$10 billion more over 5 years than the current welfare system.

Now he says to let the Government take over the health care system, and costs will go down.

Perhaps we should insist on an honesty check. And that's the point. Given Mr. Clinton's record, far from being concerned about radio talk show criticism, he should be grateful that the criticism is not louder and more widespread. It could still become so.

The President should realize that the problem results not from having the light turned on, but from the conduct that is exposed.

Americans want a President who is honest and a Government that is trustworthy. If this administration makes a sincere effort to live up to the high ideals held by the American people, then it will not have to worry about talk show commentary.

SUPPORT THE PRIVATE PROPERTY OWNER'S BILL OF RIGHTS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, and June 10, 1994, the gentleman from Louisiana [Mr. TAUZIN] is recognized during morning business for 1 minute.

Mr. TAUZIN. Madam Speaker, how many of your constituents can afford a one-half million dollar trip to the Supreme Court to find out if the Government may take their property away without compensation? Not many.

Last Friday, in a landmark Supreme Court case, one citizen of Oregon completed that trip to the Supreme Court here in Washington, and was finally awarded a victory—a victory that now belongs to every property owner in America. On Friday, the Supreme Court ruled in Dolan versus the City of Tigard, that Government cannot force a property owner to give up part of their property in order to get a discretionary permit such as a building permit.

More importantly, the Court held that the 5th amendment protection against taking private property without compensation deserves the same protection as the 1st and 4th amendments of the Bill of Rights—that private property rights are as important as free speech.

But, will every small property owner have to go all the way to the Supreme Court to get the same justice Mrs. Dolan finally won last Friday.

One hundred and fifty Members of Congress have already signed on as protectors of private property rights. One hundred and fifty of you have cospon-

sored H.R. 3875—the private property owners bill of rights.

What are the rest of you waiting for?

RECESS

The SPEAKER pro tempore. Pursuant to clause 12, rule I, the Chair declares the House in recess until 12 noon.

Accordingly (at 11 o'clock and 27 minutes a.m.) the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As the farmer plants the seed in the fertile ground, the Sun gives light, the rains come, and there is the miracle of growth, so may there be, O gracious God, a spiritual flowering that will lift our hearts and souls and minds in a way that allows our faith to stand with the difficulties of any day. May our spirits be open to Your spirit and our minds to Your mind, and our wills to Your will so we remember that we were created in Your image and likeness, and that image and likeness will be reflected in our thoughts, words, and deeds. Amen.

THE JOURNAL

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

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

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentleman from North Carolina [Mr. BALLENGER] if he would kindly come forward and lead the House in the Pledge of Allegiance.

Mr. BALLENGER led the Pledge of Allegiance as follows:

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

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will recognize 15 Members on each side for 1-minute requests.

HEALTH REFORM CONSENSUS ACT OF 1994

(Mr. ROWLAND asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. ROWLAND. Mr. Speaker, there is much disagreement about what needs to be done about the reform of our health care delivery system. However, there is much about which there is agreement.

Doesn't it seem logical to use as a starting point for our discussion the areas where there is agreement, and then make decisions about what we can achieve beyond that starting point.

That is exactly what H.R. 3955 does, it brings together from those plans out there, Republican and Democrat, the areas of agreement, in a bipartisan manner.

An issue that is so important, that involves about one-seventh of our gross domestic product, should be dealt with in a bipartisan manner.

We also try to reach more people, who now do not have access to care, through an expanded network of community health centers, that provide care in an efficient, cost effective basis.

MIKE BILIRAKIS and I invite Members from both sides of the aisle to look at our proposal.

REARRANGING THE DECK CHAIRS

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

Mr. BALLENGER. Mr. Speaker, yesterday, the President rearranged the deck chairs on his sinking ship of state. And today, Democrats will come to the floor denying that the ship is sinking at all. But, Mr. Speaker, the panic in the voices of our Democrat colleagues shows they are none too comfortable with Bill Clinton as their captain.

That explains why VIC FAZIO launched his bizarre broadside against Christian Republicans. His sad attempt to paint Republicans as being un-American showed how bad things are in the Democratic Party.

Rearranging personnel in the White House will not cure the problems of this administration. Rearranging policies will.

Instead of taxing more, the President should tax less. Instead of spending more, the White House should cut spending first. And instead of reinventing more health care bureaucrats, Mr. Clinton should support a commonsense health care reform bill.

Mr. Speaker, the Democrat policies of President Clinton have proved unpopular with the American people. He should rearrange those policies, and not merely the people implementing them.

THE ROWLAND-BILIRAKIS HEALTH CARE BILL

(Mr. PENNY asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, there is truly a need for bipartisanship in the health care debate. The Rowland-Bilirakis bill offers us a way out. The bill currently has 68 cosponsors, 34 Democrats and 34 Republicans, and it borrows ideas from other proposals on the table already.

It borrows from the Clinton plan, the Cooper plan, the Chafee plan, the Michel plan, and the Nickles plan. It takes areas which are in consensus in all of these various proposals.

For example, the Rowland-Bilirakis bill covers preexisting conditions, guarantees insurance portability, and restricts rate increases. It standardizes forms and reduces administrative red-tape, reforms our antitrust laws by allowing small businesses to form purchasing groups. It has malpractice and liability reform.

In addition, it increases the self-employed tax deduction for health insurance costs from 25 percent to 100 percent, and uses existing Medicaid funds to make health care for the poor more accessible at community health clinics.

These are real reforms that enjoy bipartisan support. We should pass this package and give the American public the reform it seeks.

H.R. 3955, THE HEALTH REFORM CONSENSUS ACT

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

Mr. BILIRAKIS. Mr. Speaker, the question on everyone's mind these days is will health legislation be enacted into law this year?

The answer is quite simple. Sensible and practical health reform legislation can become law this year, legislation that includes concepts that everyone agrees should be included in any health reform package.

The Rowland-Bilirakis Health Reform Consensus Act will provide health care to individuals now. Under our bill, people can receive coverage regardless of income level or health history—immediately.

For those who work, employers are required to offer, but not pay for, health insurance coverage. Community health networks are also created to provide preventative, primary and acute care to everyone, regardless of income level.

Our bill provides practical solutions to everyday problems people have encountered in our current health care system. Mr. Speaker, no one can argue that preexisting condition restrictions must be eliminated. Our bill would prohibit these restrictions.

And everyone agrees that insurance portability is necessary—people should

not be afraid to switch jobs due to fear of losing their health insurance.

The consensus health bill is the most sensible and reasonable approach to reforming our Nation's health care system. It provides real-life solutions to real Americans now. I urge my colleagues to support this commonsense approach to health care reform.

THE BEAR THAT HAS EVERYTHING

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

Mr. TRAFICANT. Mr. Speaker, sometimes you got the bear and sometimes the bear has got you. A zoo in New York is spending \$25,000 to cure a neurotic bear. That is right, zoo officials said the neuroses of this carnivore is unbearable. A \$1 million environment with sloped walls, a special pool, a cave, inflatable toys, new teddies, everything, including medication. This bear is on Prozac.

Unbelievable, Mr. Speaker, when a bear has a \$1 million environment, free health care, free home, free drugs, and Congress cuts Head Start and education. That says it all. Beam me up.

REJECT EMPLOYER MANDATES AND TRIGGER OPTIONS

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

Mr. THOMAS of Wyoming. Mr. Speaker, the story about the bear was tough. It was grizzly.

I want to talk about health care actually. I want to talk about the debate in health care reform. As it continues, national attention has turned to employer mandates.

Republicans oppose employer mandates because of their adverse effect on small businesses, because they will cost millions of jobs, and because they translate into a payroll tax.

The President supports employer mandates because he believes they will lead to universal coverage. Democrats in Congress are divided, but many are intrigued by the concept of triggers.

Triggers are a form of mandates that go into effect when certain standards are not met in future years. But a trigger is an employer mandate by a different name. An employer mandate by any name hurts small business just as hard.

Mr. Speaker, I urge my colleagues to reject the employer mandates of the President's plan and the trigger options of other plans. We can reform our health care system without killing our small business sector.

DOMESTIC VIOLENCE IN AMERICA

(Mr. SANDERS asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. SANDERS. Mr. Speaker, it is disturbing that the death of Nicole Simpson, a tragedy affecting the rich and the famous, should be necessary to force us to take notice of the horror of domestic violence.

Mr. Speaker, 80 percent of homicides in Vermont involved domestic partners or family members. All of the six women slain in Vermont during 1993, died at the hands of an intimate partner or family member.

□ 1210

Nationally, 3 out of every 10 women who are victims of homicide were murdered by a spouse or an intimate partner, and every 15 seconds a woman is battered by her husband or a boyfriend.

Mr. Speaker, we have 17 programs in Vermont that work with victims of domestic violence and sexual assault, and 92 percent of the people who provide those services are volunteers. These volunteers, most of whom are women, are doing an extraordinary job in counseling and supporting the victims of domestic violence. But they need help.

Mr. Speaker, I have a number of serious problems with the crime bill, but one part of it that I vigorously support is the Violence Against Women Act. We urgently need the \$1.8 billion in this bill to combat the epidemic of violence against women on the streets and in the homes of America.

BIPARTISANSHIP: THE POPULAR WAY TO REFORM

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

Mr. GOSS. Mr. Speaker, a recent Newsweek poll shows that Americans overwhelmingly reject the Clinton-style health reforms now being pushed through Congress. They think the Clinton plan would raise costs, reduce choices, and lead to rationing. Even so some top Democrats have vowed to push through health care regardless of the views of the American people. This is ridiculous, we need to stop and listen to the people's legitimate fears. Americans know that health reform is a complex task. They want us to go slow and get it right. And they want us to work together. The Rowland-Bilirakis bill is a bipartisan approach toward reform. It targets the obvious problems with widely supported, commonsense solutions. Simply put, it is the popular and smart place to begin this debate.

So let us focus our efforts on Rowland-Bilirakis and let Clinton health care rest in peace.

IN SUPPORT OF ROWLAND-BILIRAKIS

(Mr. PARKER asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. PARKER. Mr. Speaker, in the final analysis, the consensus health care bill, which passes the Congress, must include rural America. The Rowland-Bilirakis bill addresses the urban versus rural question by establishing and expanding community health centers in rural and innercity areas.

Community health centers like private medical practices are staffed by physicians and other health care professionals. However, social services and public health education are provided.

Establishing new centers will allow more residents, regardless of their financial or insurance status, to be served. Patients who can pay, will pay on a sliding scale.

The centers will not offer episodic or second-class care. They will provide quality preventive and ongoing primary care, with referrals to local hospitals and specialty providers being allowed.

Further, the bill will provide education and training with internships on site in realistic training environments.

The community health care concept, with 1,200 centers already established, is a proven commodity which reduces the need for higher cost inpatient and emergency room treatments.

I support the Rowland-Bilirakis community health care bill and believe that it provides the framework for implementing health care reform within a realistic timeframe and must be a part of the final health care reform product the Congress passes.

FIRST, DO NO HARM

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

Mr. HERGER. Mr. Speaker, the Hippocratic oath, which all doctors take, says, "first, do no harm."

As Congress considers health care reform, many Americans fear losing benefits, rationing, or being unable to choose their own doctor once reform is actually enacted.

They also oppose burdensome new taxes, or turning one-seventh of our entire U.S. economy over to the Government.

The public is telling Congress their top priority under reform is that we make the same commitment doctors make: first, do no harm.

Mr. Speaker, there is one plan that preserves what is right with our health care system, while fixing what is wrong with it.

The Rowland-Bilirakis plan allows insurance portability and ends discrimination against preexisting medical conditions. It provides real malpractice reform, combats fraud, and provides incentives to make private insurance more affordable. Let us take

this chance to adopt consensus reforms we all agree on. Support Rowland-Bilirakis.

IN SUPPORT OF ROWLAND-BILIRAKIS

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

Mr. LAUGHLIN. Mr. Speaker, there is no reason why Congress cannot achieve very substantial reform of the country's health care delivery system this year.

The Rowland-Bilirakis bill is proof of this.

ROY ROWLAND and MIKE BILIRAKIS, with the advice and help of many of our colleagues in this body, have crafted legislation around reform proposals that just about everybody on both sides of the aisle can support.

It helps farmers and independent business people by providing 100 percent deductibility of health insurance for the self-employed.

It benefits small business by making private health insurance marketed to small employers more affordable and available regardless of an employee's health status and previous claims experience.

It reduces health care costs with malpractice liability reform, administrative streamlining, and antifraud reforms.

It expands care through insurance reforms and by paving the way for an expansion of community health care centers.

Nevertheless, the one criticism we hear about this plan is that it does not do enough.

This misses the point. Those who support this consensus approach have never said it is the be all and end all of health care reform. It is, instead, a starting point.

If you believe more can be achieved by getting people to begin working together in an environment of bipartisan cooperation, rather than one of political divisiveness, then the Rowland-Bilirakis bill provides a sound basis on which to focus the debate.

Mr. Speaker, I urge our colleagues to fully consider the consensus approach and make certain we achieve as much progress as possible in health care reform this year. Support the Rowland-Bilirakis bill.

IN SUPPORT OF ROWLAND-BILIRAKIS

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

Mr. LINDER. Mr. Speaker, as a proud cosponsor of the Rowland-Bilirakis health care bill, I would like to note the unique approach taken. They

looked at the problems that people have in health care and addressed the problems without trying to turn one-seventh of the economy over to the Federal Government. It addresses insurance reform, such as portability and permanence and pooling and preexisting conditions.

It has real legal reform, and one of the salient points of it is this, it expands from 1,200 to 3,600 the number of community health care centers in America. I have a community health care center in my district. They have about 25,000 patients on the payroll. They see about 12,500 people every year. They are subsidized by the taxpayer, to the tune of \$750,000 a year, about half their entire budget. That comes to \$30 a year per patient. That is a burden that I believe Americans are willing to pay to help those who cannot afford insurance.

They treat the working poor, not Medicaid or Medicare, and anyone in this room can go into a community health center tomorrow and be treated and they will charge you something or nothing, depending on your ability to pay. It has the additional advantage of being able to place these communities' health centers in the rural areas and the inner cities where they are needed the most.

DOMESTIC VIOLENCE ISN'T JUST A PRIVATE MATTER

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

Mr. KREIDLER. Mr. Speaker, the murder of Nicole Brown Simpson has raised important issues about violence against women.

Domestic violence is not just a family matter any more. It has become a public health emergency. Battering is the No. 1 cause of injury to women in this country.

Every year, more than 1 million women seek medical treatment for wounds inflicted by the men who supposedly love them.

I am pleased that Congress passed legislation I sponsored last year to develop a program at the Centers for Disease Control to address violence against women.

Funding for this program is included in the Labor-HHS appropriations bill we will be voting on this week.

In addition, we must pass the crime bill, which includes the Violence Against Women Act. But ending this violence requires a commitment from all of us—to speak out against abuse and to hold abusers accountable.

I urge my colleagues to support these efforts to help stop violence against women.

HEALTH CARE REFORM THAT THE AMERICAN PEOPLE WANT AND DESERVE

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

Mr. GREENWOOD. Mr. Speaker, the nationwide opinion polls tell us that the American people want health care reform. These same polls also demonstrate, however, that Americans do not want a bureaucratic, Government-driven, job-killing health care system that takes away their choices, jeopardizes the quality of their care, and piles on more deficit spending.

After months of public hearings and a full-scale national debate, it is now plainly evident that the President's proposal, even with modifications, is not supported by the public and cannot even attract enough support from congressional Democrats.

It is time for us to do what the American people want us to do: Pass sensible, reasonable health care reform that expands access, holds down costs, and yet preserves what is good about our health care system. That's why I am a cosponsor and strong supporter of H.R. 3955, the Health Reform Consensus Act of 1994, commonly referred to as the Rowland-Bilirakis proposal.

I believe this bipartisan initiative represents the best approach to reforming our health care system. It seeks to fix those elements of the system that actually need to be fixed, rather than creating an entirely new and costly Government bureaucracy.

We are running out of time. It is time to set aside our differences and accomplish the reforms upon which we agree. I urge the President and leaders of the House to pass Rowland-Bilirakis and give the country the kind of health care reform it really wants.

□ 1220

STAFF CHANGES STRENGTHEN THE WHITE HOUSE AND HEALTH CARE REFORM MEANS GUARANTEED COVERAGE

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

Mr. RICHARDSON. Mr. Speaker, one Member of the minority referred to the White House staff changes as rearranging the deck chairs of the *Titanic*. Nothing could be farther from the truth. An already strong White House staff has been strengthened by yesterday's moves.

Mack McLarty has been extremely successful in his dealings with Congress. Specifically, on NAFTA, and with a number of positive initiatives on the President's economic plan, McLarty has proven his skill and worth. Now in his new position, he will

have more time to comment to issues like these. Freed from the administrative aspects of his job, I believe McLarty will be even more invaluable to President Clinton.

In Leon Panetta, a former Member of Congress, we have someone who, like us, has represented ordinary people. He knows the executive branch, the House of Representatives, and the Senate. He also knows budget issues, is politically able, and is a good administrator.

Mr. Speaker, the White House staff has been strengthened, but it is unfortunate that even administrative changes, staff changes, are politicized.

Additionally, Mr. Speaker, last week, President Clinton made it clear that guaranteed private insurance for every American was his bottom line on health care reform. It is his bottom line because without guaranteed coverage, there can be no real reform.

Guaranteed coverage is key because while we don't have guaranteed insurance today, we do have guaranteed coverage. What that means is that whenever somebody shows up at an emergency room for treatment, they get treated. Then, the middle class, those who are paying for health insurance, get saddled with the bill.

One insurance company executive said recently that uncompensated care accounted for almost one-half of last year's cost increases.

The losers in this game of cost-shifting are the hard-working families and employers who are currently paying for health insurance—both for themselves and for those without health insurance.

Mr. Speaker, only by creating a system where everybody is covered and pays their fair share can costs be spread fairly and evenly. Only by eliminating the free subsidies can we eliminate this invisible tax on the American middle class.

WHOSE FAULT IS IT THIS TIME?

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

Mr. SMITH of Texas. Mr. Speaker, today's Washington Post writes about its own latest poll results that "increasing numbers of Americans said Clinton was a mistake-prone leader lacking in decisiveness and losing his sense of the real problems facing families."

The poll reveals only half the public approves of the President's job performance; and when it comes to specifics, the message is even worse.

On the economy, 42 percent say it is getting worse and only 39 percent think it is getting better. And on health care, over half the population—53 percent—reject the President's plan.

The question all this bad news raises is: Whose fault is it this time? Last week, when confronted with bad news,

the President and his defenders lashed out at the so-called Religious Right and the news media as being responsible for their failures.

Today, we find that the President is again reshuffling his staff.

With this White House, like a losing card player staring from behind his dwindling stack of chips, it always seems to be the cards that are the problem, rather than the problem being who holds the cards.

GUARANTEED UNIVERSAL COVERAGE IS AN ESSENTIAL PART OF HEALTH CARE REFORM

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

Mr. FAZIO. Mr. Speaker, Democrats have made it clear that we will not accept health care reform without guaranteed coverage for every American. But some would have you believe that the only people who benefit from this approach are the poor and the uninsured.

However, if you look at the facts, it is clear that guaranteeing coverage for every American is not an act of charity—it is an act of necessity, for every working family.

However, the other side of the aisle just does not get it, again. Just recently, a distinguished Member of the other body threatened to filibuster and effectively block health care reform saying that, "The Clinton Plan and its clone the Kennedy plan, are in my view poison. They must be defeated, even at the cost of gridlock. Yes, filibuster, if that is what it takes * * *."

Hard-working, middle class families who have health insurance today would benefit from health care reform. Because they will not have to worry about their insurance being canceled, or their rates being raised through the roof.

Covering everybody is about leveling the playing field. It is about saving families money. And, it is about businesses not having to pay the hidden costs of the uninsured, saving billions of dollars that can be passed on to employees as wage increases or better job training.

The vast majority of Americans believe in the principle of universal private health insurance that can never be taken away. It is our duty as their representatives to make sure that they get it.

OPINION POLL SHOWS AMERICANS OPPOSED TO THE CLINTON HEALTH PLAN

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

Mr. GINGRICH. Mr. Speaker, I listened with interest to the remarks of

the distinguished gentleman from California [Mr. FAZIO], and all I can say is that I frankly do not understand the Democratic leadership's current position on health care.

The poll in the Washington Post this morning says 53 percent of the country is opposed to the Clinton health plan, 53 percent are opposed. The latest report we have from the Committee on Ways and Means is that the new House Democratic leadership bill has a brand-new tax on our health insurance; that is, if we already have health insurance, we are going to have a brandnew tax imposed on us so we can pay a tax to go to the Government for the right of having our own health insurance, and this is supposedly going to somehow lower to cost to working Americans.

We have an example today coming to the floor of two big telecommunications bills we are going to pass on a bipartisan basis because we worked together with good faith in an honest, open way. Mr. Speaker, I beg the Democratic leadership to pull back from these big tax, big Government, big bureaucracy health bills, approach it in the same open, bipartisan way, work with the people who are sponsoring the Rowland-Bilirakis bill, which is a bipartisan bill; work with those of us on the Republican side who want to pass a bipartisan health bill, but please do not try to ram through and force on the American people a tax increase, big Government health bill.

THE AMERICAN PEOPLE SUPPORT MAJOR FEATURES OF HEALTH CARE REFORM

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

Mr. KLECZKA. Mr. Speaker, I yield to the gentleman from California [Mr. FAZIO].

Mr. FAZIO. Mr. Speaker, I appreciate my colleague, the gentleman from Wisconsin [Mr. KLECZKA] yielding time to me.

I think it is important to understand what was really included in the poll that was reported in the Washington Post today. Mr. Speaker, it said that 58 to 38, people in this country think the health care system needs a major overhaul, not just a tuneup. An overwhelming majority are for the core principles of the President's plan, which are universal coverage and a mandate that makes all responsible for health care.

Seventy-eight to twenty, people agree with the President's bottom line, universal coverage. Seventy-two to twenty-seven percent say that employers should be required to provide health insurance for their full-time workers. Sixty-one percent to thirty-seven percent support charging people more for plans that provide a choice of doctors than those with assigned doc-

tors. Seventy-five percent support some kind of controls on costs.

It seems to me that the people who have interpreted the news this morning have done so from their own perspective and have ignored the facts that are on the record. That is that the American people know there is something fundamentally wrong with our system, know they have a lot to gain to fix it, and are very willing, when we look at the components of the President's plan, to embrace the initiative that he has brought to Congress.

NO MORE SECRET HEALTH CARE REFORM PLANS

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

Mr. WALKER. Mr. Speaker, what is clear about the health care plan is that the longer it sticks around and people get to understand it, the more they get unhappy about what the Clinton plan is all about. What we know about the Clinton plan, Mr. Speaker, is it was written in secret by Mrs. Clinton's operation that went behind closed doors and drafted this health care plan, and after middle-class America became familiar with it, they decided that it was not exactly what they wanted in order to get reform.

Now what we find, Mr. Speaker, is that the Democratic leadership of the House of Representatives is about to pull the same thing, that once they get a bill out of the Committee on Education and Labor and one out of the Committee on Ways and Means, they are likely to go behind closed doors of the Committee on Rules and try to write a plan that also includes the Committee on Energy and Commerce, that cannot get one out of its own committee.

What we are going to have, Mr. Speaker, is another plan drafted in secret, and then there is going to be a hope that nobody will really know what is in it by the time we pass it. Mr. Speaker, that is what we cannot have happen. Middle-class America wants whatever health care plan emerges written in public, with the press present and with everybody understanding what the details of the plan are. Secret plans to reform 14 percent of the GNP and also to do something that will affect the lives of every American are not right. No health care plan should be written in secret.

□ 1230

SIMPLIFY FEDERAL TAX CODE

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

Mr. DUNCAN. Mr. Speaker, the Washington Post has now reported that

one of the agencies the worst at record-keeping is the Internal Revenue Service itself.

The Post story was based on a report issued last week by the General Accounting Office.

The story says:

The Internal Revenue Service, which demands that taxpayer be able to produce records to back up all claims of income and deductions, could not live up to that standard itself * * *

According to the GAO, the IRS has "ineffective internal controls and unreliable information."

There were so many missing records at the IRS that the GAO investigators said they "were unable to express an opinion of the reliability" of the IRS information.

Once again, we see the arrogance and ineptitude of big Government.

Senator JOHN GLENN said:

It troubles me that G.A.O. could not issue an audit opinion on the I.R.S. financial statements because the I.R.S. can't get its own books in order. I, and American taxpayers, find this extremely unfair.

We need to greatly simplify our Federal Tax Code.

And we need to realize that if we really want effective government, instead of one filled with waste, fraud, and abuse, our best hope will be at the local level where the government is closer to the people.

The Federal Government seems to screw up almost everything it gets into.

SETTING THE RECORD STRAIGHT ON HEALTH CARE

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

Mr. GLICKMAN. Mr. Speaker, I yield to my colleague, the gentleman from Wisconsin [Mr. KLECZKA].

Mr. KLECZKA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, there are two statements I think have to be responded to by two previous speakers:

No. 1 was the fact the health care bill being put together now by the Committee on Ways and Means contains a tax for health care benefits. That is totally false and the gentleman from Georgia [Mr. GINGRICH] knows that.

The second contention was that this bill is being written in private. However, every day for the last 2½ weeks, the committee has met in room 1100 with three or four cameras present, with a roomful of not only press people but, they know full well, tons of lobbyists opposing the legislation.

Mr. Speaker, the contention that this is being written in private is total nonsense. The gentleman from California [Mr. FAZIO] indicated 72 percent of the people of this country believe that the employer has some responsibility in this thing called health care.

I challenge my Republican colleagues who oppose employer mandates to give up their employer mandate and pay the full price instead of having the taxpayers pay 73 percent of their health care bill.

COOPERATION URGED IN HEALTH CARE REFORM

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

Mr. KINGSTON. Mr. Speaker, as we go into the home stretch before the August recess, I think it is time not for Members of the House to get into this, "Well, the Republicans are saying this, the Democrats are saying this." That is not what the people want to hear. What they want to hear is that we are going to do what is best and what is right. We may disagree, but that does not mean we are wrong, that does not mean we are bad. Let us find out what we agree on and put the best of the Republican ideas and the best of the Democrat ideas together.

Mr. Speaker, the Rowland-Bilirakis health care bill is a significant first step. It is something we can all go home with. No, it is not going to have universal coverage for every American. I think that is a great idea of the President, but the fact is we still have a \$4.4 trillion debt we have to contend with and before we go and obligate a huge, massive new social program, we have got to say, this is what we are going to do about the debt.

Mr. Speaker, let us start out with the Roland-Bilirakis bill. It is a bipartisan bill that has antitrust reform, malpractice reform, and doing away with the preexisting illness conditions of a policy. It is a good start.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

JOHN F. KENNEDY CENTER ACT AMENDMENTS OF 1994

Mr. TRAFICANT. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 3567), to amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for

the Performing Arts, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "John F. Kennedy Center Act Amendments of 1994".

SEC. 2. FINDINGS, BUREAU, BOARD OF TRUSTEES, AND ADVISORY COMMITTEE.

(a) FINDINGS.—Section 1 of the John F. Kennedy Center Act (20 U.S.C. 76h note) is amended—

(1) by striking "SECTION 1." and inserting the following:

"SECTION 1. SHORT TITLE AND FINDINGS.

"(a) SHORT TITLE.—"; and

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

"(b) FINDINGS.—Congress finds that—

"(1) the late John Fitzgerald Kennedy served with distinction as President of the United States and as a Member of the Senate and the House of Representatives;

"(2) by the untimely death of John Fitzgerald Kennedy the United States and the world have suffered a great loss;

"(3) the late John Fitzgerald Kennedy was particularly devoted to education and cultural understanding and the advancement of the performing arts;

"(4) it is fitting and proper that a living institution of the performing arts, designated as the National Center for the Performing Arts, named in the memory and honor of this great leader, shall serve as the sole national monument to his memory within the District of Columbia and its environs;

"(5) such a living memorial serves all of the people of the United States by preserving, fostering, and transmitting the performing arts traditions of the people of the United States and other countries by producing and presenting music, opera, theater, dance, and other performing arts; and

"(6) such a living memorial should be housed in the John F. Kennedy Center for the Performing Arts, located in the District of Columbia."

(b) EX OFFICIO TRUSTEES.—

(1) IN GENERAL.—Section 2 of such Act (20 U.S.C. 76h) is amended—

(A) by striking the section heading and all that follows before "There is hereby" and inserting the following:

"SEC. 2. BOARD OF TRUSTEES.

"(a) ESTABLISHMENT.—";

(B) in the first sentence, by inserting "as the National Center for the Performing Arts, a living memorial to John Fitzgerald Kennedy," after "thereof"; and

(C) in the second sentence—

(i) by striking "Chairman of the District of Columbia Recreation Board" and inserting "Superintendent of Schools of the District of Columbia"; and

(ii) by striking "three Members of the Senate" and all that follows before "ex officio" and inserting "the chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives and 3 additional Members of the House of Representatives appointed by the Speaker of the House of Representatives, and the chairman and ranking minority member of the Committee on Environment and Public Works of the Senate and 3 additional Members of the Senate appointed by the President of the Senate".

(2) EFFECTIVE DATES.—

(A) SUPERINTENDENT OF SCHOOLS OF THE DISTRICT OF COLUMBIA.—The amendment made by paragraph (1)(C)(i) shall take effect on the date of expiration of the term of the Chairman of the

District of Columbia Recreation Board serving as a trustee of the John F. Kennedy Center for the Performing Arts on the date of enactment of this Act.

(B) MEMBERS OF CONGRESS.—The amendment made by paragraph (1)(C)(ii) shall take effect on the date of enactment of this Act.

(c) GENERAL TRUSTEES.—Subsection (b) of section 2 of such Act is amended to read as follows:

"(b) GENERAL TRUSTEES.—The general trustees shall be appointed by the President of the United States. Each trustee shall hold office as a member of the Board for a term of 6 years, except that—

"(1) any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of the member was appointed shall be appointed for the remainder of the term;

"(2) a member shall continue to serve until the successor of the member has been appointed; and

"(3) the term of office of a member appointed before the date of enactment of the John F. Kennedy Center Act Amendments of 1994 shall expire as designated at the time of appointment."

(d) ADVISORY COMMITTEE ON THE ARTS.—Section 2(c) of such Act is amended—

(1) by inserting "ADVISORY COMMITTEE ON THE ARTS.—" before "There shall be";

(2) in the first sentence, by inserting "of the United States" after "President" the first place it appears;

(3) in the fifth sentence, by striking "cultural activities to be carried on in" and inserting "cultural activities to be carried out by"; and

(4) in the last sentence, by striking all that follows "compensation" and inserting a period.

SEC. 3. DUTIES OF THE BOARD.

Section 4 of the John F. Kennedy Center Act (20 U.S.C. 76j) is amended by striking the section heading and all that follows through the period at the end of subsection (a) and inserting the following:

"SEC. 4. DUTIES OF THE BOARD.

"(a) PROGRAMS, ACTIVITIES, AND GOALS.—

"(1) IN GENERAL.—The Board shall—

"(A) present classical and contemporary music, opera, drama, dance, and other performing arts from the United States and other countries;

"(B) promote and maintain the John F. Kennedy Center for the Performing Arts as the National Center for the Performing Arts—

"(i) by developing and maintaining a leadership role in national performing arts education policy and programs, including developing and presenting original and innovative performing arts and educational programs for children, youth, families, adults, and educators designed specifically to foster an appreciation and understanding of the performing arts;

"(ii) by developing and maintaining a comprehensive and broad program for national and community outreach, including establishing model programs for adaptation by other presenting and educational institutions; and

"(iii) by conducting joint initiatives with the national education and outreach programs of the Very Special Arts, an entity affiliated with the John F. Kennedy Center for the Performing Arts which has an established program for the identification, development, and implementation of model programs and projects in the arts for disabled individuals;

"(C) strive to ensure that the education and outreach programs and policies of the John F. Kennedy Center for the Performing Arts meet the highest level of excellence and reflect the cultural diversity of the United States;

"(D) provide facilities for other civic activities at the John F. Kennedy Center for the Performing Arts;

"(E) provide within the John F. Kennedy Center for the Performing Arts a suitable memorial in honor of the late President;

"(F) develop, and update annually, a comprehensive building needs plan for the features of the John F. Kennedy Center for the Performing Arts in existence on the date of enactment of the John F. Kennedy Center Act Amendments of 1994;

"(G) with respect to each feature of the building and site of the John F. Kennedy Center for the Performing Arts that is in existence on the date of enactment of the John F. Kennedy Center Act Amendments of 1994 (including a theater, the garage, the plaza, or a building walkway), plan, design, and construct each capital repair, replacement, improvement, rehabilitation, alteration, or modification necessary for the feature; and

"(H) provide—

"(i) information and interpretation; and

"(ii) with respect to each feature of the building and site of the John F. Kennedy Center for the Performing Arts that is in existence on the date of enactment of the John F. Kennedy Center Act Amendments of 1994 (including a theater, the garage, the plaza, or a building walkway), all necessary maintenance, repair, and alteration of, and all janitorial, security, and other services and equipment necessary for the operation of, the feature, in a manner consistent with requirements for high quality operations.

"(2) ADMINISTRATIVE POWERS AND DUTIES.—

"(A) AUTHORITY TO ENTER INTO CONTRACTS.—The Board, in accordance with applicable law, may enter into contracts or other arrangements with, and make payments to, public agencies or private organizations or other private persons in order to carry out the functions of the Board under this Act. The authority described in the preceding sentence includes utilizing the services and facilities of other agencies, including the Department of the Interior, the General Services Administration, and the Smithsonian Institution.

"(B) PREPARATION OF BUDGET.—The Board shall prepare a budget pursuant to sections 1104, 1105(a), and 1513(b) of title 31, United States Code.

"(C) USE OF AGENCY PERSONNEL.—The Board may utilize or employ the services of the personnel of any agency or instrumentality of the Federal Government or the District of Columbia, with the consent of the agency or the instrumentality concerned, on a reimbursable basis, and utilize voluntary and uncompensated personnel.

"(D) SELECTION OF CONTRACTORS.—In carrying out the duties of the Board under this Act, the Board may negotiate any contract for an environmental system for, a protection system for, or a repair to, maintenance of, or restoration of the John F. Kennedy Center for the Performing Arts with selected contractors and award the contract on the basis of contractor qualifications as well as price.

"(E) MAINTENANCE OF HALLS.—The Board shall maintain the Hall of Nations, the Hall of States, and the Grand Foyer of the John F. Kennedy Center for the Performing Arts in a manner that is suitable to a national performing arts center that is operated as a Presidential memorial and in a manner consistent with other national Presidential memorials.

"(F) MAINTENANCE OF GROUNDS.—The Board shall manage and operate the grounds of the John F. Kennedy Center for the Performing Arts in a manner consistent with National Park Service regulations and agreements in effect on the date of enactment of the John F. Kennedy Center Act Amendments of 1994. No change in the management and operation of the grounds may be made without the express approval of Congress and of the Secretary of the Interior."

SEC. 4. OFFICERS AND EMPLOYEES; REVIEW OF BOARD ACTIONS.

(a) SOLICITATION AND ACCEPTANCE OF GIFTS.—Section 5 of the John F. Kennedy Center Act (20 U.S.C. 76k) is amended—

(1) by striking the section heading and all that follows through "(a)" and inserting the following:

"SEC. 5. POWERS OF THE BOARD.

"(a) SOLICITATION AND ACCEPTANCE OF GIFTS.—"; and

(2) in subsection (a), by striking "Smithsonian Institution" and inserting "John F. Kennedy Center for the Performing Arts, as a bureau of the Smithsonian Institution."

(b) APPOINTMENT OF OFFICERS AND EMPLOYEES.—Subsection (b) of section 5 of such Act is amended to read as follows:

"(b) APPOINTMENT OF OFFICERS AND EMPLOYEES.—

"(1) CHAIRPERSON AND SECRETARY.—The Board shall appoint and fix the compensation and duties of a Chairperson of the John F. Kennedy Center for the Performing Arts, who shall serve as the chief executive officer of the Center, and a Secretary of the John F. Kennedy Center for the Performing Arts. The Chairperson and Secretary shall be well qualified by experience and training to perform the duties of their respective offices.

"(2) SENIOR LEVEL EXECUTIVE AND OTHER EMPLOYEES.—The Chairperson of the John F. Kennedy Center for the Performing Arts may appoint—

"(A) a senior level executive who, by virtue of the background of the individual, shall be well suited to be responsible for facilities management and services and who may, without regard to the provisions of title 5, United States Code, be appointed and compensated with appropriated funds, except that the compensation may not exceed the maximum rate of pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code; and

"(B) such other officers and employees of the John F. Kennedy Center for the Performing Arts as may be necessary for the efficient administration of the functions of the Board."

(c) TRANSFERS; REVIEW OF BOARD ACTIONS.—Section 5 of such Act is amended by striking subsection (c) and inserting the following new subsections:

"(c) TRANSFER OF PROPERTY.—Not later than October 1, 1995, the property, liabilities, contracts, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions transferred from the Secretary of the Interior pursuant to the amendments made by the John F. Kennedy Center Act Amendments of 1994 shall be transferred, subject to section 1531 of title 31, United States Code, to the Board as the Board and the Secretary of the Interior may determine appropriate. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which, and subject to the terms under which, the funds were originally authorized and appropriated.

"(d) TRANSFER OF PERSONNEL.—

"(1) IN GENERAL.—Employees of the National Park Service assigned to duties related to the functions being undertaken by the Board shall be transferred with their functions to the Board not later than October 1, 1995.

"(2) RIGHTS AND BENEFITS.—Transferred employees shall remain in the Federal competitive service and retain all rights and benefits provided under title 5, United States Code. For a period of not less than 3 years after the date of transfer of an employee under paragraph (1), the transferred employee shall retain the right

of priority consideration under merit promotion procedures or lateral reassignment for all vacancies within the Department of the Interior.

"(3) PARK POLICE.—All United States Park Police and Park Police guard force employees assigned to the John F. Kennedy Center for the Performing Arts shall remain employees of the National Park Service.

"(4) COSTS.—All usual and customary costs associated with any adverse action or grievance proceeding resulting from the transfer of functions under this section that are incurred before October 1, 1995, shall be paid from funds appropriated to the John F. Kennedy Center for the Performing Arts.

"(5) REORGANIZATION AUTHORITY.—Nothing contained in this section shall prohibit the Board from reorganizing functions at the John F. Kennedy Center for the Performing Arts in accordance with laws governing reorganizations.

"(e) REVIEW OF BOARD ACTIONS.—The actions of the Board relating to performing arts and to payments made or directed to be made by the Board from any trust funds shall not be subject to review by any officer or agency other than a court of law.

"(f) COLLECTIVE BARGAINING.—

"(1) DEFINITION.—As used in this subsection, the term 'theatrical employee' means a non-appropriated fund employee of the Board, who is engaged in a box office, performing, or theatrical trade that is the subject of a collective bargaining agreement as of January 1, 1994, including any change in the trade as a result of a technological advance.

"(2) COLLECTIVE BARGAINING.—

"(A) IN GENERAL.—For the purposes of the National Labor Relations Act (29 U.S.C. 151 et seq.) and the Labor-Management Relations Act, 1947 (29 U.S.C. 141 et seq.)—

"(i) each theatrical employee shall be considered to be an 'employee' within the meaning of section 2(3) of the National Labor Relations Act (29 U.S.C. 152(3)); and

"(ii) with respect to a theatrical employee, the Board shall be considered to be an 'employer' within the meaning of section 2(2) of the National Labor Relations Act (29 U.S.C. 152(2)).

"(B) RIGHTS AND OBLIGATIONS.—With respect to each theatrical employee, the theatrical employee and the Board shall have all of the rights and obligations specified in such Acts."

SEC. 5. REVIEWS, AUDITS, AND CLAIMS.

Section 6 of the John F. Kennedy Center Act (20 U.S.C. 76l) is amended—

(1) in subsection (c), by striking "its operations" and inserting "the operations of the Board"; and

(2) by striking subsections (e) and (f) and inserting the following new subsections:

"(d) AUDIT OF ACCOUNTS.—Not less than once every 3 years, the Comptroller General shall review and audit the accounts of the John F. Kennedy Center for the Performing Arts for the purpose of examining expenditures of funds appropriated under the authority provided by this Act.

"(e) INSPECTOR GENERAL.—The functions of the Board funded by funds appropriated pursuant to section 12 shall be subject to the requirements for a Federal entity under the Inspector General Act of 1978 (5 U.S.C. App. 3). The Inspector General of the Smithsonian Institution is authorized to carry out the requirements of such Act on behalf of the Board, on a reimbursable basis when requested by the Board.

"(f) PROPERTY AND PERSONNEL COMPENSATION.—

"(1) IN GENERAL.—The Board may procure insurance against any loss in connection with the property of the Board and other assets administered by the Board. Each employee and volunteer of the Board shall be considered to be a

civil employee of the United States (within the meaning of the term 'employee' as defined in section 8101(1) of title 5, United States Code), except that the Board shall continue to provide benefits with respect to any disability or death resulting from a personal injury to a nonappropriated fund employee of the Board sustained while in the performance of the duties of the employee for the Board pursuant to the workers compensation statute of the jurisdiction in which the John F. Kennedy Center for the Performing Arts is located. The disability or death benefits referred to in the preceding sentence, whether under the workers compensation statute referred to in the preceding sentence or under chapter 81 of title 5, United States Code, shall continue to be the exclusive liability of the Board and the United States with respect to all employees and volunteers of the Board.

"(2) FEDERAL TORT CLAIMS.—For the purposes of chapter 171 of title 28, United States Code, an employee of the Board shall be considered to be an 'employee of the government' and the Board shall be considered to be a 'Federal agency'. No employee of the Board may bring suit against the United States or the Board under the Federal tort claims procedure of chapter 171 of title 28, United States Code, for disability or death resulting from personal injury sustained while in the performance of the duties of the employee for the Board."

SEC. 6. TECHNICAL AMENDMENTS.

Section 10 of the John F. Kennedy Center Act (20 U.S.C. 76p) is amended—

(1) by striking "he" and inserting "the Secretary"; and

(2) by striking "his judgment" and inserting "the judgment of the Secretary".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

The John F. Kennedy Center Act (20 U.S.C. 76h et seq.) is amended by adding at the end the following new section:

"SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

"(a) MAINTENANCE, REPAIR, AND SECURITY.—There are authorized to be appropriated to the Board to carry out section 4(a)(1)(H) \$12,000,000 for each of fiscal years 1995 through 1999.

"(b) CAPITAL PROJECTS.—There are authorized to be appropriated to the Board to carry out subparagraphs (F) and (G) of section 4(a)(1) \$9,000,000 for each of fiscal years 1995 through 1999.

"(c) LIMITATION ON USE OF FUNDS.—No funds appropriated pursuant to this section may be used for any direct expense incurred in the production of a performing arts attraction, for personnel who are involved in performing arts administration (including any supply or equipment used by the personnel), or for production, staging, public relations, marketing, fundraising, ticket sales, or education. Funds appropriated directly to the Board shall not affect nor diminish other Federal funds sought for any performing arts function and may be used to reimburse the Board for that portion of costs that are Federal costs reasonably allocated to building services and theater maintenance and repair."

SEC. 8. DEFINITIONS.

The John F. Kennedy Center Act (20 U.S.C. 76h et seq.) (as amended by section 7) is further amended by adding at the end the following new section:

"SEC. 13. DEFINITIONS.

"As used in this Act, the terms 'building and site of the John F. Kennedy Center for the Performing Arts' and 'grounds of the John F. Kennedy Center for the Performing Arts' refer to the site in the District of Columbia on which the John F. Kennedy Center building is constructed and that extends to the line of the west face of the west retaining walls and curbs of the Inner Loop Freeway on the east, the north face of the

north retaining walls and curbs of the Theodore Roosevelt Bridge approaches on the south, the east face of the east retaining walls and curbs of Rock Creek Parkway on the west, and the south curbs of New Hampshire Avenue and F Street on the north, as generally depicted on the map entitled 'Transfer of John F. Kennedy Center for the Performing Arts', numbered 844/82563, and dated April 20, 1994, which shall be on file and available for public inspection in the office of the National Capital Region, National Park Service, Department of the Interior."

SEC. 9. RULES AND REGULATIONS.

(a) AUTHORITY TO PRESCRIBE.—Section 5(a) of the Act of October 24, 1951 (65 Stat. 634; chapter 559; 40 U.S.C. 193r(a)), is amended—

(1) by striking "Institution and" and inserting "Institution,"; and

(2) by inserting ", and the Trustees of the John F. Kennedy Center for the Performing Arts," after "National Gallery of Art".

(b) AUTHORITY TO SUSPEND.—Section 8 of such Act (40 U.S.C. 193u) is amended by striking "the Secretary of the Smithsonian Institution or the Trustees of the National Gallery of Art or" each place it appears and inserting "the Secretary of the Smithsonian Institution, the Trustees of the National Gallery of Art, the Trustees of the John F. Kennedy Center for the Performing Arts, or".

(c) BUILDINGS AND GROUNDS DEFINED.—Section 9 of such Act (40 U.S.C. 193v) is amended by adding at the end the following new paragraph:

"(3) The site of the John F. Kennedy Center for the Performing Arts, which shall be held to extend to the line of the west face of the west retaining walls and curbs of the Inner Loop Freeway on the east, the north face of the north retaining walls and curbs of the Theodore Roosevelt Bridge approaches on the south, the east face of the east retaining walls and curbs of Rock Creek Parkway on the west, and the south curbs of New Hampshire Avenue and F Street on the north, as generally depicted on the map entitled 'Transfer of John F. Kennedy Center for the Performing Arts', numbered 844/82563, and dated April 20, 1994, which shall be on file and available for public inspection in the office of the National Capital Region, National Park Service, Department of the Interior."

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio [Mr. TRAFICANT] will be recognized for 20 minutes, and the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Ohio [Mr. TRAFICANT].

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

Mr. Speaker, H.R. 3567 is a bill which is long overdue. This bill would amend the John F. Kennedy Center Act to transfer operating responsibilities to the Board of Trustees of the John F. Kennedy Center for the Performing Arts. For the first time, the Center will control not only its day to day operations but also will develop, manage, and implement a capital improvement program.

By authorizing the Center to carry out these responsibilities, this bill corrects long-standing deficiencies in the management and operation of the Center. The bifurcated management structure, which divided these responsibilities between the National Park Service and the Kennedy Center, proved to

be cumbersome, expensive, and unworkable. Working closely with the Subcommittee on National Parks, chaired by Chairman BRUCE VENTO, we have been successful in coordinating and consolidating overall management responsibility with the Kennedy Center Board of Trustees.

The Senate amendment, to which the committee does not object, makes every minor technical changes, and preserves the rights of non-appropriated fund employees to engage in collective bargaining.

Mr. Speaker, this bill reinvents and reinvigorates the management of the John F. Kennedy Center, one of our Nation's most cherished and beloved public buildings. I wish to thank Chairman VENTO and acknowledge the cooperation of his committee. I also wish to thank our very capable chairman, NORMAN MINETA, for his support and guidance. Finally, in the spirit of bipartisanship, I thank Congressman JOHN DUNCAN for his support on this bill.

Mr. Speaker, I urge my colleagues to concur in the Senate amendment to H.R. 3567, as amended.

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

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

Mr. Speaker, I rise in support of H.R. 3567, an act to amend the John F. Kennedy Center for the Performing Arts Act. On May 10, 1994, the House passed H.R. 3567 by voice vote and sent this legislation to the other body for its consideration. On June 27, 1994, H.R. 3567 passed the Senate, with minor clarifying, technical, and grammatical changes to the House passed bill. The action today will accept those changes, thus clearing the measure for the President's signature.

These amendments are long overdue for the successful and efficient program of operation and maintenance, as well as making capital improvements to the Kennedy Center. This legislation provides for long term planning by the Board of the Kennedy Center, and provides for autonomy, consistent with applicable Federal procurement and acquisition law, for the Board to contract for work to be performed. A total of \$105 million over the next 5 fiscal years is authorized: \$12 million per fiscal year over the next 5 years for operations and maintenance, and \$9 million per fiscal year over the next 5 years of capital improvements. These figures are less than the Center has been receiving in recent years, but testimony before the Subcommittee on Public Buildings and Grounds by Mr. James Wolfensohn, Chairman of the Kennedy Center, assured the Members that these figures are sufficient to meet the requirements of the Center. Additionally, Mr. Wolfensohn has expressed a willingness to be accountable for the successful completion of the 5-year program for capital improvements.

I am also supporting this legislation because of the willingness of Mr. Wolfensohn and the Kennedy Center to seek private funding for the Center, and not simply rely on tax dollars for the performing arts functions of the Center. Since becoming chairman in March 1990, Mr. Wolfensohn has been responsible for raising \$71,265,000 in private and corporate donations. This successful effort is particularly noteworthy given the difficult economic times in which these funds were secured.

This legislation also calls for the transfer of some 55 National Park Service employees, who will retain all rights of Federal employment, and will have the right to return to the Department of Interior without a loss of seniority. I congratulate Mr. TRAFICANT and Mr. MINETA for their work on this bill.

Mr. Speaker, I urge enactment of these needed changes to law and I urge my colleagues to accept this legislation.

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

□ 1240

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

Mr. Speaker, I urge my colleagues to concur in the Senate amendment to H.R. 3567, as amended.

Mr. VENTO. Mr. Speaker, I rise in support of the bill. As members will recall, H.R. 3567 was approved by the House on May 10, 1994, after having been considered by both the Committee on Public Works and Transportation and the Committee on Natural Resources. The bill, as amended, will provide for a 5-year authorization for maintenance, repair, and capital projects at the John F. Kennedy Center for the Performing Arts in the District of Columbia. The bill also transfers all current National Park Service responsibilities and personnel to the Kennedy Center board of trustees. The center will function in the future as a bureau of the Smithsonian Institution, and funding for nonperforming arts purposes will be provided through an appropriation directly to the board of trustees.

I had some concerns about certain provisions of the bill as introduced, and the version approved by the Committee on Natural Resources made what I believe are significant improvements. First, the board of trustees will be required to provide for the center's management in a manner consistent with other National Presidential memorials. By law, and under this legislation, the center will remain a memorial to the late President. I believe we must have a clearly enunciated policy to ensure that the center meets the high standard fitting a National memorial.

Second, the bill requires the grounds to be managed consistent with current National Park Service regulations and agreements. While I agree that separation of powers is necessary and a positive step in accomplishing the required renovations, I remain concerned about the impact on surrounding National Park Serv-

ice property. Because of the Kennedy Center's location amid heavily used and fragile National Park resources, I believe there should be continuity and consistency in the management of the grounds. The bill, as amended, requires the Kennedy Center to continue to manage the grounds according to current National Park Service regulations and agreements; any changes in such management must be approved by the secretary and enacted by Congress. This ensures the appropriate maintenance of both the building and the grounds while protecting the National Park Service interest in the surrounding property and open space.

Finally, the Committee on Natural Resources had included a provision referencing a map delineating the boundaries of the John F. Kennedy Center for the Performing Arts, which upon enactment would be under the jurisdiction of the board of trustees.

I understand that the Senate made some changes in the legislation, but I have reviewed their version, and am satisfied that the bill we are considering today retains those provisions advocated by the Committee on Natural Resources. I believe the version before us enables much needed improvements to be made to the Kennedy Center while protecting the interests of the National Park Service, and I urge my colleagues' support.

Mr. MINETA. Mr. Speaker, I rise in strong support of H.R. 3567, the John F. Kennedy Center Act Amendments of 1994, as amended. H.R. 3567 already passed the House on May 10, 1994. The Senate made some technical changes to the bill which we are concurring in at this time.

Mr. Speaker, today is indeed a historic occasion as this bill, by making significant changes to the John F. Kennedy Center Act, gives the Kennedy Center, for the first time, full responsibility for its own activities.

First of all, Mr. Speaker, I want to commend the gentleman from Ohio, the subcommittee chairman on Public Buildings and Grounds, Mr. TRAFICANT, and the subcommittee's ranking republican member, Mr. DUNCAN, for their fine leadership on this important measure. I would also like to recognize and thank the Committee on Natural Resources' Chairman GEORGE MILLER, ranking Republican DON YOUNG, Chairman BRUCE VENTO, and ranking Republican member JAMES HANSEN of their Subcommittee on Natural Parks, Forest, and Public Lands and their staffs for their cooperation and hard work on this measure. I am pleased that this bill enjoys such broad bipartisan support. It is truly a visionary piece of legislation.

H.R. 3567, the John F. Kennedy Center Act Amendments of 1994, as amended, represents months of sustained effort, coordination and hard work by both the Kennedy Center, primarily Mr. James Wolfensohn, chairman of the board at the John F. Kennedy Center for the Performing Arts, and his staff, and the Department of Interior, specifically Secretary Babbitt and the representatives from the National Park Service. They all deserve our praise and thanks.

The Kennedy Center, like the Smithsonian Institution and its other bureaus, is a unique trust instrumentality of the United States. The original Act establishes the Kennedy Center

not only as a cultural arts center, but also charges it with the responsibility of administering a living memorial to President John F. Kennedy. Finally, it has a mandated mission to serve both the local and national community.

Currently, the management of operations and maintenance of the Kennedy Center is shared between the center's board of trustees and the National Park Service of the Department of Interior. Over the past 23 years since the building was constructed, there have been several building defects and maintenance problems. The Kennedy Center Board and the Park Service have tried to share responsibility for the nonperforming arts aspects of the Kennedy Center's operations. Unfortunately, this shared approach has not been as successful as both would have hoped.

This bill, as amended, addresses this fundamental issue by giving the Kennedy Center sole responsibility for its building and site. As such, the Center will receive directly the general fund appropriations necessary to fulfill its new responsibilities. Currently, the nonperforming arts functions of the Center are funded by appropriations to the Park Service.

With the passage of this historic bill, the Kennedy Center management will for the first time enjoy both the responsibility and accountability for its buildings, theaters, and its performing arts and education activities. But with the responsibility also comes the opportunity to set a vision for the future. The current Kennedy Center management welcomes its new challenge and we are proud to have helped frame its mandate.

Mr. Speaker, this legislation affirms once again the fundamental mission of the Nation's living memorial to President Kennedy and I strongly urge its adoption.

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

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Ohio [Mr. TRAFICANT] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 3567.

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

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TRAFICANT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3567, the bill just considered.

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

There was no objection.

ANTITRUST AND COMMUNICATIONS REFORM ACT OF 1994

Mr. BROOKS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3626) to supersede the Modification of Final Judgment entered August

24, 1982, in the antitrust action styled *United States v. Western Electric*, Civil Action No. 82-0192, U.S. District Court for the District of Columbia; to amend the Communications Act of 1934 to regulate the manufacturing of Bell operating companies, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3626

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

SECTION I. SHORT TITLES; TABLE OF CONTENTS.

(a) **SHORT TITLE OF THIS ACT.**—This Act may be cited as the "Antitrust and Communications Reform Act of 1994".

(b) **SHORT TITLE OF TITLE I OF THIS ACT.**—Title I of this Act may be cited as the "Antitrust Reform Act of 1994".

(c) **TABLE OF CONTENTS.**—

Sec. 1. Short titles; table of contents.

TITLE I—SUPERSESION OF THE MODIFICATION OF FINAL JUDGMENT

Sec. 101. Authorization for Bell operating company to enter competitive lines of business.

Sec. 102. Authorization as prerequisite.

Sec. 103. Limitations on manufacturing and providing equipment.

Sec. 104. Anticompetitive tying arrangements.

Sec. 105. Enforcement.

Sec. 106. Definitions.

Sec. 107. Relationship to other laws.

Sec. 108. Required regulatory actions.

TITLE II—REGULATION OF MANUFACTURING, ALARM SERVICES, AND ELECTRONIC PUBLISHING BY BELL OPERATING COMPANIES

Sec. 201. Regulation of manufacturing by Bell operating companies.

Sec. 202. Regulation of entry into alarm monitoring services.

Sec. 203. Regulation of electronic publishing.

Sec. 204. Privacy of customer information.

Sec. 205. Telemessaging services.

Sec. 206. Enhanced services safeguards.

TITLE III—FEDERAL COMMUNICATIONS COMMISSION RESOURCES

Sec. 301. Authorization of appropriations.

TITLE I—SUPERSESION OF THE MODIFICATION OF FINAL JUDGMENT

SEC. 101. AUTHORIZATION FOR BELL OPERATING COMPANY TO ENTER COMPETITIVE LINES OF BUSINESS.

(a) **APPLICATION.**—

(1) **IN GENERAL.**—After the applicable date specified in paragraph (2), a Bell operating company may apply to the Attorney General and the Federal Communications Commission for authorization, notwithstanding the Modification of Final Judgment—

(A) to provide alarm monitoring services, or

(B) to provide interexchange telecommunications services.

The application shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, for which authorization is sought.

(2) **APPLICABLE DATES.**—For purposes of paragraph (1), the applicable date after which a Bell operating company may apply for authorization shall be—

(A) the date of the enactment of this Act, with respect to providing interexchange telecommunications services, and

(B) the date that occurs 66 months after the date of the enactment of this Act, with respect to providing alarm monitoring services.

(3) **INTERAGENCY NOTIFICATION.**—Whenever the Attorney General or the Federal Communications Commission receives an application made under paragraph (1), the recipient of the application shall notify the other of such receipt.

(4) **PUBLICATION.**—Not later than 10 days after receiving an application made under paragraph (1), the Attorney General and the Federal Communications Commission jointly shall publish the application in the Federal Register.

(b) **SEPARATE DETERMINATIONS BY THE ATTORNEY GENERAL AND THE FEDERAL COMMUNICATIONS COMMISSION.**—

(1) **COMMENT PERIOD.**—Not later than 45 days after an application is published under subsection (a)(4), interested persons may submit written comments to the Attorney General, to the Federal Communications Commission, or to both regarding the application. Submitted comments shall be available to the public.

(2) **INTERAGENCY CONSULTATION.**—Before making their respective determinations under paragraph (3), the Attorney General and the Federal Communications Commission shall consult with each other regarding the application involved.

(3) **DETERMINATIONS.**—(A) After the time for comment under paragraph (1) has expired, but not later than 180 days after receiving an application made under subsection (a)(1), the Attorney General and the Federal Communications Commission each shall issue separately a written determination, on the record after an opportunity for a hearing, with respect to granting the authorization for which the Bell operating company has applied.

(B) Such determination shall be based on a preponderance of the evidence.

(C) Any person who would be threatened with loss or damage as a result of the approval of the authorization requested shall be permitted to participate as a party in the proceeding on which the determination is based.

(D)(i) The Attorney General shall approve the granting of the authorization requested in the application only to the extent that the Attorney General finds that there is no substantial possibility that such company or its affiliates could use monopoly power to impede competition in the market such company seeks to enter. The Attorney General shall deny the remainder of the requested authorization.

(ii) The Federal Communications Commission shall approve the granting of the requested authorization only to the extent that the Commission finds that granting the requested authorization is consistent with the public interest, convenience, and necessity. The Commission shall deny the remainder of the requested authorization.

(iii) Notwithstanding clauses (i) and (ii), not later than 180 days after the date of the enactment of this Act, the Attorney General and the Federal Communications Commission shall each prescribe regulations to establish procedures and criteria for the expedited determination and approval of applications for authorization to provide interexchange telecommunications services (other than services described in section 102(c)) that are incidental to the provision of another service which the Bell operating company may lawfully provide. Before prescribing such regulations, the Attorney Gen-

eral and the Commission shall consult with respect to such regulations, including consultation for the purpose of avoiding unnecessary inconsistencies in such regulations.

(E) In making its determination under subparagraph (D)(i) regarding the public interest, convenience, and necessity, the Commission shall take into account—

(i) the probability that granting the requested authorization will secure reduced rates for consumers of the services that are the subject of the application, especially residential subscribers,

(ii) whether granting the requested authorization will result in increases in rates for consumers of exchange service,

(iii) the extent to which granting the requested authorization will expedite the delivery of new services and products to consumers,

(iv) the extent to which the Commission's regulations, or other laws or regulations, will preclude the applicant from engaging in predatory pricing or other anticompetitive economic practices with respect to the services that are the subject of the application,

(v) the extent to which granting the requested authorization will permit collusive acts or practices between or among Bell operating companies that are not affiliates of each other,

(vi) whether granting the requested authorization will result, directly or indirectly, in increasing concentration among providers of the service that is the subject of the application to such an extent that consumers will not be protected from rates that are unjust or unreasonable or that are unjustly or unreasonably discriminatory, and

(vii) in the case of an application to provide alarm monitoring services, whether the Commission has the capability to enforce effectively the regulations established pursuant to section 230 of the Communications Act of 1934 as added by this Act.

(F) A determination that approves the granting of any part of a requested authorization shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, to which approval applies.

(4) **PUBLICATION.**—Not later than 10 days after issuing a determination under paragraph (3), the Attorney General or the Federal Communications Commission, as the case may be, shall publish in the Federal Register a brief description of the determination.

(5) **FINALITY.**—A determination made under paragraph (3) shall be final unless a civil action with respect to such determination is timely commenced under subsection (c)(1).

(6) **AUTHORIZATION GRANTED.**—A requested authorization is granted to the extent that—

(A)(i) both the Attorney General and the Federal Communications Commission approve under paragraph (3) the granting of the authorization, and

(ii) neither of their approvals is vacated or reversed as a result of judicial review authorized by subsection (c), or

(B) as a result of such judicial review of either or both determinations, both the Attorney General and the Federal Communications Commission approve the granting of the requested authorization.

(c) **JUDICIAL REVIEW.**—

(1) **COMMENCEMENT OF ACTION.**—Not later than 45 days after a determination by the Attorney General or the Federal Communications Commission is published under subsection (b)(4), the Bell operating company that applied to the Attorney General and the

Federal Communications Commission under subsection (a), or any person who would be threatened with loss or damage as a result of the determination regarding such company's engaging in the activity described in such company's application, may commence an action in the United States Court of Appeals for the District of Columbia Circuit against the Attorney General or the Federal Communications Commission, as the case may be, for judicial review of the determination regarding the application.

(2) **CERTIFICATION OF RECORD.**—As part of the answer to the complaint, the Attorney General or the Federal Communications Commission, as the case may be, shall file in such court a certified copy of the record upon which the determination is based.

(3) **CONSOLIDATION OF ACTIONS.**—The court shall consolidate for judicial review all actions commenced under this subsection with respect to the application.

(4) **JUDGMENT.**—(A) The court shall enter a judgment after reviewing the determination in accordance with section 706 of title 5 of the United States Code.

(B) A judgment—

(i) affirming any part of the determination that approves granting all or part of the requested authorization, or

(ii) reversing any part of the determination that denies all or part of the requested authorization,

shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, to which the affirmation or reversal applies.

SEC. 102. AUTHORIZATION AS PREREQUISITE.

(a) **PREREQUISITE.**—Until a Bell operating company is so authorized in accordance with section 101, it shall be unlawful for such company, directly or through an affiliated enterprise, to engage in an activity described in section 101(a)(1).

(b) **GENERAL EXCEPTIONS.**—Except with respect to providing alarm monitoring services, subsection (a) shall not prohibit a Bell operating company from engaging, at any time after the date of the enactment of this Act—

(1) in any activity as authorized by an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the Modification of Final Judgment, if—

(A) such order was entered on or before the date of the enactment of this Act, or

(B) a request for such authorization was pending before such court on the date of the enactment of this Act,

(2) in providing intrastate interexchange telecommunications services if—

(A) after the date of the enactment of this Act, the State involved approves or authorizes such company to provide such services, after taking into account the potential effects of such approval or authorization on competition and the public interest,

(B) not less than 90 days before such company offers to provide such services, such company gives notice to the public and the Attorney General that such approval or authorization has been granted by such State, and appoints an agent for the purpose of receiving service of process,

(C) the Attorney General—

(i) fails to commence a civil action in accordance with subsection (d), not later than 90 days after the Attorney General receives the notice described in subparagraph (B), to enjoin such company from providing such services, or

(ii) so commences such civil action but—

(I) fails to obtain an injunction from the district court involved enjoining such company from providing such services, or

(II) such injunction issued by such court is vacated on appeal, and

(D) the Bell operating company is required by regulations prescribed by the Federal Communications Commission and such State, for the services subject to their respective jurisdictions, to pay a nondiscriminatory access charge to the local exchange carrier (including itself) that provides the Bell operating company with telephone exchange access, and

(3) in providing interexchange telecommunications services through resale of telecommunications services purchased from a person who is not an affiliated enterprise of such company if—

(A) such interexchange telecommunications services involve only telecommunications that originate in a State in which, on the date of the enactment of this Act, such company provided wireline telephone exchange services,

(B) such State has approved or authorized persons that are not affiliated enterprises of such company to provide intraexchange toll telecommunications services in such a manner that customers in such State have the ability to route automatically, without the use of any access code, their intraexchange toll telecommunications to the telecommunications services provider of the customer's designation from among 2 or more telecommunications services providers (including such company),

(C) after the date of the enactment of this Act and not less than 90 days before such company offers to provide such interexchange telecommunications services, such company gives notice to the public and the Attorney General that such approval or authorization has been granted by such State, and

(D) the Attorney General—

(i) fails to commence a civil action in accordance with subsection (d), not later than 90 days after the Attorney General receives the notice described in subparagraph (C), to enjoin such company from providing such services, or

(ii) so commences such civil action but—

(I) fails to obtain an injunction from the district court involved enjoining such company from providing such services, or

(II) such injunction issued by such court is vacated on appeal.

(c) **EXCEPTIONS FOR INCIDENTAL SERVICES.**—Subsection (a) shall not prohibit a Bell operating company, at any time after the date of the enactment of this Act, from providing interexchange telecommunications services for the purpose of—

(1)(A) providing audio programming, video programming, or other programming services to subscribers to such services of such company,

(B) providing the capability for interaction by such subscribers to select or respond to such audio programming, video programming, or other programming services, or

(C) providing to distributors audio programming or video programming that such company owns, controls, or is licensed by the copyright owner of such programming, or by an assignee of such owner, to distribute,

(2) providing a telecommunications service, using the transmission facilities of a cable system that is an affiliate of such company, between exchange areas within a cable system franchise area in which such company is not, on the date of the enactment of this Act, a provider of wireline telephone exchange service,

(3) providing commercial mobile services in accordance with section 332(c) of the Communications Act of 1934 (47 U.S.C. 332(c)) and with the regulations prescribed by the Commission pursuant to paragraph (7) of such section,

(4) providing a service that permits a customer that is located in one exchange area to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another exchange area,

(5) providing signaling information used in connection with the provision of exchange services to a local exchange carrier that, together with any affiliated local exchange carriers, has aggregate annual revenues of less than \$100,000,000, or

(6) providing network control signaling information to, and receiving such signaling information from, interexchange carriers at any location within the area in which such company provides exchange services or exchange access.

(d) **CIVIL ACTION.**—(1) For the purpose of paragraph (2) or (3) of subsection (b), the Attorney General shall commence a civil action, not later than 90 days after receiving the notice required by paragraph (2)(B) or (3)(C) of such subsection, respectively, to enjoin such company from providing interexchange telecommunications services pursuant to such paragraph if the Attorney General determines that the standard specified in the first sentence of section 101(b)(3)(D)(i) is not satisfied with respect to providing such interexchange telecommunications services.

(2) With respect to a civil action commenced for the purpose of paragraph (2) or (3) of subsection (b), venue shall lie in any district court of the United States in the State that granted the approval or authorization referred to in such paragraph.

(3) If the Attorney General does not commence a civil action in accordance with paragraph (1) before the expiration of the 90-day period beginning on the date the Attorney General receives such notice, the Attorney General shall publish in the Federal Register a brief statement that the Attorney General has determined not to commence such civil action.

SEC. 103. LIMITATIONS ON MANUFACTURING AND PROVIDING EQUIPMENT.

(a) **ABSOLUTE LIMITATION.**—Until the expiration of the 1-year period beginning on the date of the enactment of this Act, it shall be unlawful for a Bell operating company, directly or through an affiliated enterprise, to manufacture or provide telecommunications equipment, or to manufacture customer premises equipment.

(b) **QUALIFIED LIMITATION.**—

(1) **REQUIRED CONDITIONS.**—After the expiration of the 1-year period beginning on the date of the enactment of this Act, it shall be lawful for a Bell operating company, directly or through an affiliated enterprise, to manufacture or provide telecommunications equipment, or to manufacture customer premises equipment, to the extent described in a notification to the Attorney General that meets the requirements of paragraph (2) and only if—

(A) such company submits to the Attorney General, at any time after the date of the enactment of this Act, the notification described in paragraph (2) and such additional material and information described in such paragraph as the Attorney General may request, and complies with the waiting period specified in paragraph (3), and

(B)(i) the waiting period specified in paragraph (3) expires without the commencement

of a civil action by the Attorney General in accordance with paragraph (4) to enjoin such company from engaging in the activity described in such notification, or

(ii) before the expiration of such waiting period, the Attorney General notifies such company in writing that the Attorney General does not intend to commence such a civil action with respect to such activity.

(2) **NOTIFICATION.**—The notification required by paragraph (1) shall be in such form and shall contain such documentary material and information relevant to the proposed activity as is necessary and appropriate for the Attorney General to determine whether there is no substantial possibility that such company or its affiliates could use monopoly power to impede competition in the market such company seeks to enter for such activity.

(3) **WAITING PERIOD.**—The waiting period referred to in paragraph (1) is the 1-year period beginning on the date the notification required by such paragraph is received by the Attorney General.

(4) **CIVIL ACTION.**—Not later than 1 year after receiving a notification required by paragraph (1), the Attorney General may commence a civil action in an appropriate district court of the United States to enjoin the Bell operating company from engaging in the activity described in such notification, if the Attorney General determines that there is a substantial possibility that such company or its affiliates could use monopoly power to impede competition in the market it seeks to enter with respect to such activity.

(c) **EXCEPTION FOR PREVIOUSLY AUTHORIZED ACTIVITIES.**—Subsections (a) and (b) shall not prohibit a Bell operating company from engaging, at any time after the date of the enactment of this Act, in any activity as authorized by an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the Modification of Final Judgment, if—

(1) such order was entered on or before the date of the enactment of this Act, or

(2) a request for such authorization was pending before such court on the date of the enactment of this Act.

SEC. 104. ANTICOMPETITIVE TYING ARRANGEMENTS.

A Bell operating company with monopoly power in any exchange service market shall not tie (directly or indirectly) in any relevant market the sale of any product or service to the provision of any telecommunications service, if the effect of such tying may be to substantially lessen competition, or to tend to create a monopoly, in any line of commerce.

SEC. 105. ENFORCEMENT.

(a) **EQUITABLE POWERS OF UNITED STATES ATTORNEYS.**—It shall be the duty of the several United States attorneys, under the direction of the Attorney General, to institute proceedings in equity in their respective districts to prevent and restrain violations of this title.

(b) **CRIMINAL LIABILITY.**—Whoever knowingly engages or knowingly attempts to engage in an activity that is prohibited by section 102, 103, or 104 shall be guilty of a felony, and on conviction thereof, shall be punished to the same extent as a person is punished upon conviction of a violation of section 1 of the Sherman Act (15 U.S.C. 1).

(c) **PRIVATE RIGHT OF ACTION.**—Any person who is injured in its business or property by reason of a violation of this title—

(1) may bring a civil action in any district court of the United States in the district in

which the defendant resides or is found or has an agent, without respect to the amount in controversy, and

(2) shall recover threefold the damages sustained, and the cost of suit (including a reasonable attorney's fee).

The court may award under this section, pursuant to a motion by such person promptly made, simple interest on actual damages for the period beginning on the date of service of such person's pleading setting forth a claim under this title and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances.

(d) **PRIVATE INJUNCTIVE RELIEF.**—Any person shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by a violation of this title, when and under the same conditions and principles as injunctive relief is available under section 16 of the Clayton Act (15 U.S.C. 26). In any action under this subsection in which the plaintiff substantially prevails, the court shall award the cost of suit, including a reasonable attorney's fee, to such plaintiff.

(e) **JURISDICTION.**—(1) Subject to paragraph (2), the courts of the United States shall have exclusive jurisdiction to make determinations with respect to a duty, claim, or right arising under this title, other than determinations authorized to be made by the Attorney General and the Federal Communications Commission under section 101(b)(3).

(2) The United States Court of Appeals for the District of Columbia shall have exclusive jurisdiction to review determinations made under section 101(b)(3).

(3) No action commenced to assert or enforce a duty, claim, or right arising under this title shall be stayed pending any such determination by the Attorney General or the Federal Communications Commission.

(f) **SUBPOENAS.**—In an action commenced under this title, a subpoena requiring the attendance of a witness at a hearing or a trial may be served at any place within the United States.

(g) **APPLICABILITY OF OTHER LAWS TO ENFORCEMENT OF THIS TITLE.**—

(1) **SECTION 5 OF THE CLAYTON ACT.**—Section 5 of the Clayton Act (15 U.S.C. 16) shall apply with respect to actions under this section brought by or on behalf of the United States.

(2) **ANTITRUST CIVIL PROCESS ACT.**—Section 2(a) of the Antitrust Civil Process Act (15 U.S.C. 1311(a)) is amended—

(A) in paragraph (1) by striking "and" at the end,

(B) in paragraph (2) by striking the period at the end and inserting "and", and

(C) by adding at the end the following:

"(3) title I of the Antitrust and Communications Reform Act of 1994."

SEC. 106. DEFINITIONS.

For purposes of this title:

(1) **AFFILIATE.**—The term "affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, to own refers to owning an equity interest (or the equivalent thereof) of more than 50 percent.

(2) **ALARM MONITORING SERVICE.**—The term "alarm monitoring service" means a service that uses a device located at a residence, place of business, or other fixed premises—

(A) to receive signals from other devices located at or about such premises regarding

a possible threat at such premises to life, safety, or property, from burglary, fire, vandalism, bodily injury, or other emergency, and

(B) to transmit a signal regarding such threat by means of transmission facilities of a Bell operating company or one of its affiliates to a remote monitoring center to alert a person at such center of the need to inform the customer or another person or police, fire, rescue, security, or public safety personnel of such threat,

but does not include a service that uses a medical monitoring device attached to an individual for the automatic surveillance of an ongoing medical condition.

(3) **ANTITRUST LAWS.**—The term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes the Act of June 19, 1936 (49 Stat. 1526; 15 U.S.C. 13 et seq.), commonly known as the Robinson Patman Act, and section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(4) **AUDIO PROGRAMMING.**—The term "audio programming" means programming provided by, or generally considered comparable to programming provided by, a radio broadcast station.

(5) **BELL OPERATING COMPANY.**—The term "Bell operating company" means—

(A) Bell Telephone Company of Nevada, Illinois Bell Telephone Company, Indiana Bell Telephone Company, Incorporated, Michigan Bell Telephone Company, New England Telephone and Telegraph Company, New Jersey Bell Telephone Company, New York Telephone Company, U S West Communications Company, South Central Bell Telephone Company, Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, The Bell Telephone Company of Pennsylvania, The Chesapeake and Potomac Telephone Company, The Chesapeake and Potomac Telephone Company of Maryland, The Chesapeake and Potomac Telephone Company of Virginia, The Chesapeake and Potomac Telephone Company of West Virginia, The Diamond State Telephone Company, The Ohio Bell Telephone Company, The Pacific Telephone and Telegraph Company, or Wisconsin Telephone Company,

(B) any successor or assign of any such company, or

(C) any affiliate of any person described in subparagraph (A) or (B).

(6) **CABLE SYSTEM.**—The term "cable system" has the meaning given such term in section 602(7) of the Communications Act of 1934 (47 U.S.C. 522(7)).

(7) **CARRIER.**—The term "carrier" has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(8) **COMMERCIAL MOBILE SERVICES.**—The term "commercial mobile services" has the meaning given such term in section 332(d) of the Communications Act of 1934 (47 U.S.C. 332(d)).

(9) **CUSTOMER PREMISES EQUIPMENT.**—The term "customer premises equipment" means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications, and includes software integral to such equipment.

(10) **EXCHANGE ACCESS.**—The term "exchange access" means exchange services provided for the purpose of originating or terminating interexchange telecommunications.

(11) **EXCHANGE AREA.**—The term "exchange area" means a contiguous geographic area

established by a Bell operating company such that no exchange area includes points within more than 1 metropolitan statistical area, consolidated metropolitan statistical area, or State, except as expressly permitted under the Modification of Final Judgment before the date of the enactment of this Act.

(12) EXCHANGE SERVICE.—The term "exchange service" means a telecommunications service provided within an exchange area.

(13) INFORMATION.—Except as provided in paragraph (17), the term "information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or other symbols.

(14) INTEREXCHANGE TELECOMMUNICATIONS.—The term "interexchange telecommunications" means telecommunications between a point located in an exchange area and a point located outside such exchange area.

(15) MANUFACTURE.—The term "manufacture" has the meaning given such term under the Modification of Final Judgment.

(16) MODIFICATION OF FINAL JUDGMENT.—The term "Modification of Final Judgment" means the order entered August 24, 1982, in the antitrust action styled *United States v. Western Electric*, Civil Action No. 82-0192, in the United States District Court for the District of Columbia, and includes any judgment or order with respect to such action entered on or after August 24, 1982.

(17) OTHER PROGRAMMING SERVICES.—The term "other programming services" means information (other than audio programming or video programming) that the person who offers a video programming service makes available to all subscribers generally. For purposes of the preceding sentence, the terms "information" and "makes available to all subscribers generally" have the same meaning such terms have under section 602(13) of the Communications Act of 1934 (47 U.S.C. 522(13)).

(18) PERSON.—The term "person" has the meaning given such term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(19) STATE.—The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, or any territory or possession of the United States.

(20) TELECOMMUNICATIONS.—The term "telecommunications" means the transmission of information between points by electromagnetic means.

(21) TELECOMMUNICATIONS EQUIPMENT.—The term "telecommunications equipment" means equipment, other than customer premises equipment, used by a carrier to provide a telecommunications service, and includes software integral to such equipment.

(22) TELECOMMUNICATIONS SERVICE.—The term "telecommunications service" means the offering for hire of transmission facilities or of telecommunications by means of such facilities.

(23) TRANSMISSION FACILITIES.—The term "transmission facilities" means equipment (including wire, cable, microwave, satellite, and fiber-optics) that transmits information by electromagnetic means or that directly supports such transmission, but does not include customer premises equipment.

(24) VIDEO PROGRAMMING.—The term "video programming" has the meaning given such term in section 602(19) of the Communications Act of 1934 (47 U.S.C. 522(19)).

SEC. 107. RELATIONSHIP TO OTHER LAWS.

(a) MODIFICATION OF FINAL JUDGMENT.—This title shall supersede the Modification of Final Judgment, except that this title shall not affect—

(1) section I of the Modification of Final Judgment, relating to AT&T reorganization,

(2) section II(A) (including appendix B) and II(B) of the Modification of Final Judgment, relating to equal access and nondiscrimination,

(3) section IV(F) and IV(I) of the Modification of Final Judgment, with respect to the requirements included in the definitions of "exchange access" and "information access",

(4) section VIII(B) of the Modification of Final Judgment, relating to printed advertising directories,

(5) section VIII(E) of the Modification of Final Judgment, relating to notice to customers of AT&T,

(6) section VIII(F) of the Modification of Final Judgment, relating to less than equal exchange access,

(7) section VIII(G) of the Modification of Final Judgment, relating to transfer of AT&T assets, including all exceptions granted thereunder before the date of the enactment of this Act, and

(8) with respect to the parts of the Modification of Final Judgment described in paragraphs (1) through (7)—

(A) section III of the Modification of Final Judgment, relating to applicability and effect,

(B) section IV of the Modification of Final Judgment, relating to definitions,

(C) section V of the Modification of Final Judgment, relating to compliance,

(D) section VI of the Modification of Final Judgment, relating to visitatorial provisions,

(E) section VII of the Modification of Final Judgment, relating to retention of jurisdiction, and

(F) section VIII(I) of the Modification of Final Judgment, relating to the court's sua sponte authority.

(b) ANTITRUST LAWS.—Except as provided in section 105(g), nothing in this Act shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws.

(c) FEDERAL, STATE, AND LOCAL LAW.—(1) Except as provided in paragraph (2), this title shall not be construed to modify, impair, or supersede Federal, State, or local law unless expressly so provided in this title.

(2) This title shall supersede State and local law to the extent that such law would impair or prevent the operation of this title.

(d) CUMULATIVE PENALTY.—Any penalty imposed, or relief granted, under this title shall be in addition to, and not in lieu of, any penalty or relief authorized by any other law to be imposed with respect to conduct described in this title.

SEC. 108. REQUIRED REGULATORY ACTIONS.

(a) REGULATIONS TO PROHIBIT CROSS-SUBSIDIES.—Not later than 180 days after the date of enactment of this Act, the Federal Communications Commission shall review its regulations and revise such regulations to the extent necessary to prevent a Bell operating company from engaging in any improper cross-subsidization in connection with any of the services described in paragraphs (1) through (6) of section 102(c).

(b) MOBILE SERVICE ACCESS.—

(1) AMENDMENT.—Section 332(c) of the Communications Act of 1934 (47 U.S.C. 332(c)) is amended by adding at the end the following new paragraph:

"(7) MOBILE SERVICES ACCESS.—Within 180 days after the date of enactment of this

paragraph, the Commission shall review its regulations with respect to the access to interexchange services provided to subscribers to commercial mobile services and revise such regulations to the extent necessary to protect the public interest, convenience, and necessity. In revising such regulations, the Commission—

"(A) shall, until January 1, 1998, and may thereafter (i) require that each provider of two-way commercial mobile services afford its subscribers nondiscriminatory access to a provider of interexchange services of the subscriber's choice, and (ii) establish geographic service areas within which providers of two-way commercial mobile services shall be exempt from the access obligation under clause (i);

"(B) may establish or revise technical interconnection requirements on providers of two-way commercial mobile services;

"(C) subject to section 104 of the Antitrust and Communications Reform Act of 1994, and the provisions of paragraph (1) of this subsection and subparagraph (A) of this paragraph and the regulations prescribed thereunder, may permit (with or without conditions) or prohibit the bundling of two-way commercial mobile services with interexchange services; and

"(D) shall not, in establishing any requirement under subparagraph (A), (B), or (C) establish different requirements—

"(i) for providers of two-way commercial mobile services that also are, or are affiliated with, providers of wireline telephone exchange service; and

"(ii) for providers of two-way commercial mobile services that are not, and are not affiliated with, providers of wireline telephone exchange service.

The regulations prescribed pursuant to this paragraph shall supersede any inconsistent requirements imposed by the Modification of Final Judgment (as such term is defined in section 106 of the Antitrust and Communications Reform Act of 1994). Nothing in this paragraph shall affect the Commission's authority to establish the terms and conditions under which providers of telephone exchange services provide access to the local exchange networks for commercial mobile services or interexchange services."

(2) EFFECTIVE DATE CONFORMING AMENDMENT.—Section 6002(c)(2)(B) of the Omnibus Budget Reconciliation Act of 1993 is amended by striking "section 332(c)(6)" and inserting "paragraphs (6) and (7) of section 332(c)".

TITLE II—REGULATION OF MANUFACTURING, ALARM SERVICES, AND ELECTRONIC PUBLISHING BY BELL OPERATING COMPANIES

SEC. 201. REGULATION OF MANUFACTURING BY BELL OPERATING COMPANIES.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end the following new section:

"SEC. 229. REGULATION OF MANUFACTURING BY BELL OPERATING COMPANIES.

"(a) GENERAL AUTHORITY.—Subject to the requirements of this section and the regulations prescribed thereunder, but notwithstanding any restriction or obligation imposed before the date of enactment of this section pursuant to the Modification of Final Judgment on the lines of business in which a Bell operating company may engage, a Bell operating company, through an affiliate of that company, may manufacture and provide telecommunications equipment and manufacture customer premises equipment.

"(b) SEPARATE MANUFACTURING AFFILIATE.—Any manufacturing or provision authorized under subsection (a) shall be conducted only through an affiliate that is separate from any Bell operating company.

"(c) COMMISSION REGULATION OF MANUFACTURING AFFILIATE.—

"(1) REGULATIONS REQUIRED.—The Commission shall prescribe regulations to ensure that Bell operating companies and their affiliates comply with the requirements of this section.

"(2) BOOKS, RECORDS, ACCOUNTS.—A manufacturing affiliate required by subsection (b) shall—

"(A) maintain books, records, and accounts that are separate from the books, records, and accounts of its affiliated Bell operating company and that identify all financial transactions between the manufacturing affiliate and its affiliated Bell operating company, and

"(B) even if such manufacturing affiliate is not a publicly held corporation, prepare financial statements which are in compliance with financial reporting requirements under the Federal securities laws for publicly held corporations, file such statements with the Commission, and make such statements available for public inspection.

"(3) IN-KIND BENEFITS TO AFFILIATE.—Consistent with the provisions of this section, neither a Bell operating company nor any of its nonmanufacturing affiliates shall perform sales, advertising, installation, production, or maintenance operations for a manufacturing affiliate, except that—

"(A) a Bell operating company and its nonmanufacturing affiliates may sell, advertise, install, and maintain telecommunications equipment and customer premises equipment after acquiring such equipment from their manufacturing affiliate; and

"(B) institutional advertising, of a type not related to specific telecommunications equipment, carried out by the Bell operating company or its affiliates, shall be permitted.

"(4) DOMESTIC MANUFACTURING REQUIRED.—

"(A) GENERAL RULE.—Except as otherwise provided in this paragraph, a manufacturing affiliate required by subsection (b) shall conduct all of its manufacturing within the United States and all component parts of customer premises equipment manufactured by such affiliate, and all component parts of telecommunications equipment manufactured by such affiliate, shall have been manufactured within the United States.

"(B) EXCEPTION.—(i) Such affiliate may use component parts manufactured outside the United States if—

"(I) such affiliate first makes a good faith effort to obtain equivalent component parts manufactured within the United States at reasonable prices, terms, and conditions; and

"(II) for the aggregate of telecommunications equipment and customer premises equipment manufactured and sold in the United States by such affiliate, the cost of the components manufactured outside the United States contained in all such equipment does not exceed 40 percent of the sales revenue derived in any calendar year from such equipment.

"(ii) Subparagraph (A) shall apply except to the extent that any of its provisions are determined to be inconsistent with any multilateral or bilateral agreement to which the United States is a party.

"(C) CERTIFICATION REQUIRED.—Any such affiliate that uses component parts manufactured outside the United States in the manufacture of telecommunications equipment and customer premises equipment within the United States shall—

"(i) certify to the Commission that a good faith effort was made to obtain equivalent parts manufactured within the United States at reasonable prices, terms, and conditions, which certification shall be filed on a quarterly basis with the Commission and list component parts, by type, manufactured outside the United States; and

"(ii) certify to the Commission on an annual basis that such affiliate complied with the requirements of subparagraph (B)(ii), as adjusted in accordance with subparagraph (G).

"(D) REMEDIES FOR FAILURES.—(i) If the Commission determines, after reviewing the certification required in subparagraph (C)(i), that such affiliate failed to make the good faith effort required in subparagraph (B)(i) or, after reviewing the certification required in subparagraph (C)(ii), that such affiliate has exceeded the percentage specified in subparagraph (B)(ii), the Commission may impose penalties or forfeitures as provided for in title V of this Act.

"(ii) Any supplier claiming to be damaged because a manufacturing affiliate failed to make the good faith effort required in subparagraph (B)(i) may make complaint to the Commission as provided for in section 208 of this Act, or may bring suit for the recovery of actual damages for which such supplier claims such affiliate may be liable under the provisions of this Act in any district court of the United States of competent jurisdiction.

"(E) ANNUAL REPORT.—The Commission, in consultation with the Secretary of Commerce, shall, on an annual basis, determine the cost of component parts manufactured outside the United States contained in all telecommunications equipment and customer premises equipment sold in the United States as a percentage of the revenues from sales of such equipment in the previous calendar year.

"(F) USE OF INTELLECTUAL PROPERTY IN MANUFACTURE.—Notwithstanding subparagraph (A), a manufacturing affiliate may use intellectual property created outside the United States in the manufacture of telecommunications equipment and customer premises equipment in the United States. A component manufactured using such intellectual property shall not be treated for purposes of subparagraph (B)(ii) as a component manufactured outside the United States solely on the basis of the use of such intellectual property.

"(G) RESTRICTIONS ON COMMISSION AUTHORITY.—The Commission may not waive or alter the requirements of this paragraph, except that the Commission, on an annual basis, shall adjust the percentage specified in subparagraph (B)(i) to the percentage determined by the Commission, in consultation with the Secretary of Commerce, pursuant to subparagraph (E).

"(5) INSULATION OF RATE PAYERS FROM MANUFACTURING AFFILIATE DEBT.—Any debt incurred by any such manufacturing affiliate may not be issued by its affiliated Bell operating company and such manufacturing affiliate shall be prohibited from incurring debt in a manner that would permit a creditor, on default, to have recourse to the assets of its affiliated Bell operating company.

"(6) RELATION TO OTHER AFFILIATES.—A manufacturing affiliate required by subsection (b) shall not be required to operate separately from the other affiliates of its affiliated Bell operating company, but if an affiliate of a Bell operating company becomes affiliated with a manufacturing entity, such affiliate shall be treated as a manufacturing affiliate of that Bell operating company (ex-

cept for purposes of paragraph (3)) and shall comply with the requirements of this section.

"(7) AVAILABILITY OF EQUIPMENT TO OTHER CARRIERS.—A manufacturing affiliate required by subsection (b) shall make available, without discrimination or preference as to price, delivery, terms, or conditions, to any common carrier any telecommunications equipment that is used in the provision of telephone exchange service and that is manufactured by such affiliate only if such purchasing carrier—

"(A) does not manufacture telecommunications equipment, and does not have an affiliated telecommunications equipment manufacturing entity; or

"(B) agrees to make available, to the Bell operating company affiliated with such manufacturing affiliate or any common carrier affiliate of such Bell operating company, any telecommunications equipment that is used in the provision of telephone exchange service and that is manufactured by such purchasing carrier or by any entity or organization with which such purchasing carrier is affiliated.

"(8) SALES PRACTICES OF MANUFACTURING AFFILIATES.—

"(A) PROHIBITION OF DISCONTINUATION OF EQUIPMENT FOR WHICH THERE IS REASONABLE DEMAND.—A manufacturing affiliate required by subsection (b) shall not discontinue or restrict sales to a common carrier of any telecommunications equipment that is used in the provision of telephone exchange service and that such affiliate manufactures for sale as long as there is reasonable demand for the equipment by such carriers; except that such sales may be discontinued or restricted if such manufacturing affiliate demonstrates to the Commission that it is not making a profit, under a marginal cost standard implemented by the Commission by regulation, on the sale of such equipment.

"(B) DETERMINATIONS OF REASONABLE DEMAND.—Within 60 days after receipt of an application under subparagraph (A), the Commission shall reach a determination as to the existence of reasonable demand for purposes of such subparagraph. In making such determination the Commission shall consider—

"(i) whether the continued manufacture of the equipment will be profitable;

"(ii) whether the equipment is functionally or technologically obsolete;

"(iii) whether the components necessary to manufacture the equipment continue to be available;

"(iv) whether alternatives to the equipment are available in the market; and

"(v) such other factors as the Commission deems necessary and proper.

"(9) JOINT PLANNING OBLIGATIONS.—Each Bell operating company shall, consistent with the antitrust laws, (including title I of the Antitrust and Communications Reform Act of 1994), engage in joint network planning and design with other contiguous common carriers providing telephone exchange service, but agreement with such other carriers shall not be required as a prerequisite for the introduction or deployment of services pursuant to such joint network planning and design.

"(d) INFORMATION REQUIREMENTS.—

"(1) FILING OF INFORMATION ON PROTOCOLS AND TECHNICAL REQUIREMENTS.—Each Bell operating company shall, in accordance with regulations prescribed by the Commission, maintain and file with the Commission full and complete information with respect to the protocols and technical requirements for

connection with and use of its telephone exchange service facilities. Each such company shall report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule for implementation of such changes or planned changes.

"(2) FILING AS PREREQUISITE TO DISCLOSURE TO AFFILIATE.—A Bell operating company shall not disclose to any of its affiliates any information required to be filed under paragraph (1) unless that information is filed promptly, as required by regulation by the Commission.

"(3) ACCESS BY COMPETITORS TO INFORMATION.—The Commission may prescribe such additional regulations under this subsection as may be necessary to ensure that manufacturers in competition with a Bell operating company's manufacturing affiliate have access to the information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities required for such competition that such company makes available to its manufacturing affiliate.

"(4) PLANNING INFORMATION.—Each Bell operating company shall provide, to contiguous common carriers providing telephone exchange service, timely information on the planned deployment of telecommunications equipment.

"(e) ADDITIONAL COMPETITION REQUIREMENTS.—The Commission shall prescribe regulations requiring that any Bell operating company which has an affiliate that engages in any manufacturing authorized by subsection (a) shall—

"(1) provide, to other manufacturers of telecommunications equipment and customer premises equipment that is functionally equivalent to equipment manufactured by the Bell operating company manufacturing affiliate, opportunities to sell such equipment to such Bell operating company which are comparable to the opportunities which such Company provides to its affiliates; and

"(2) not subsidize its manufacturing affiliate with revenues from telephone exchange service or telephone toll service.

"(f) COLLABORATION PERMITTED.—Nothing in this section (other than subsection (1)) shall be construed to limit or restrict the ability of a Bell operating company and its affiliates to engage in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment during the design and development of hardware, software, or combinations thereof related to such equipment.

"(g) ACCESSIBILITY REQUIREMENTS.—

"(1) MANUFACTURING.—The Commission shall, within 1 year after the date of enactment of this section, prescribe such regulations as are necessary to ensure that telecommunications equipment and customer premises equipment designed, developed, and fabricated pursuant to the authority granted in this section shall be accessible and usable by individuals with disabilities, including individuals with functional limitations of hearing, vision, movement, manipulation, speech, and interpretation of information, unless the costs of making the equipment accessible and usable would result in an undue burden or an adverse competitive impact.

"(2) NETWORK SERVICES.—The Commission shall, within 1 year after the date of enactment of this section, prescribe such regulations as are necessary to ensure that advances in network services deployed by a Bell operating company shall be accessible and usable by individuals whose access

might otherwise be impeded by a disability or functional limitation, unless the costs of making the services accessible and usable would result in an undue burden or adverse competitive impact. Such regulations shall seek to permit the use of both standard and special equipment and seek to minimize the need of individuals to acquire additional devices beyond those used by the general public to obtain such access.

"(3) COMPATIBILITY.—The regulations prescribed under paragraphs (1) and (2) shall require that whenever an undue burden or adverse competitive impact would result from the manufacturing or network services requirements in such paragraphs, the manufacturing affiliate that designs, develops, or fabricates the equipment or the Bell operating company that deploys the network service shall ensure that the equipment or network service in question is compatible with existing peripheral devices or specialized customer premises equipment commonly used by persons with disabilities to achieve access, unless doing so would result in an undue burden or adverse competitive impact.

"(4) DEFINITIONS.—As used in this subsection:

"(A) UNDEE BURDEN.—The term 'undue burden' means significant difficulty or expense. In determining whether an activity would result in an undue burden, the following factors shall be considered:

"(i) the nature and cost of the activity;

"(ii) the impact on the operation of the facility involved in the manufacturing of the equipment or deployment of the network service;

"(iii) the financial resources of the manufacturing affiliate in the case of manufacturing of equipment, for as long as applicable regulatory rules prohibit cross-subsidization of equipment manufacturing with revenues from regulated telecommunications service or when the manufacturing activities are conducted in a separate subsidiary;

"(iv) the financial resources of the Bell operating company in the case of network services, or in the case of manufacturing of equipment if applicable regulatory rules permit cross-subsidization of equipment manufacturing with revenues from regulated telecommunications services and the manufacturing activities are not conducted in a separate subsidiary; and

"(v) the type of operation or operations of the manufacturing affiliate or Bell operating company as applicable.

"(B) ADVERSE COMPETITIVE IMPACT.—In determining whether the activity would result in an adverse competitive impact, the following factors shall be considered:

"(i) whether such activity would raise the cost of the equipment or network service in question beyond the level at which there would be sufficient consumer demand by the general population to make the equipment or network service profitable; and

"(ii) whether such activity would, with respect to the equipment or network service in question, put the manufacturing affiliate or Bell operating company, as applicable, at a competitive disadvantage in comparison with one or more providers of one or more competing products and services. This factor may only be considered so long as competing manufacturers and network service providers are not held to the same obligation with respect to access by persons with disabilities.

"(C) ACTIVITY.—For the purposes of this paragraph, the term 'activity' includes—

"(i) the research, design, development, deployment, and fabrication activities necessary to comply with the requirements of this section; and

"(ii) the acquisition of the related materials and equipment components.

"(5) EFFECTIVE DATE.—The regulations required by this subsection shall become effective 18 months after the date of enactment of this section.

"(h) PUBLIC NETWORK ENHANCEMENT.—A Bell operating company manufacturing affiliate shall, as a part of its overall research and development effort, establish a permanent program for manufacturing research and development of products and applications for the enhancement of the public switched telephone network and to promote public access to advanced telecommunications services. Such program shall focus its work substantially on developing technological advancements in public telephone network applications, telecommunication equipment and products, and access solutions to new services and technology, including access by (1) public institutions, including educational and health care institutions; and (2) people with disabilities and functional limitations. Notwithstanding the limitations in subsection (a), a Bell operating company and its affiliates may engage in such a program in conjunction with a Bell operating company not so affiliated or any of its affiliates. The existence or establishment of such a program that is jointly provided by manufacturing affiliates of Bell operating companies shall satisfy the requirements of this section as it pertains to all such affiliates of a Bell operating company.

"(i) RULEMAKING REQUIRED.—The Commission shall prescribe regulations to implement this section within 180 days after the date of enactment of this section.

"(j) ADMINISTRATION AND ENFORCEMENT AUTHORITY.—

"(1) COMMISSION REGULATORY AUTHORITY.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed thereunder, the Commission shall have the same authority, power, and functions with respect to any Bell operating company or any affiliate thereof as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(2) PRIVATE ACTIONS.—Any common carrier that provides telephone exchange service and that is injured by an act or omission of a Bell operating company or its manufacturing affiliate which violates the requirements of paragraph (7) or (8) of subsection (c), or the Commission's regulations implementing such paragraphs, may initiate an action in a district court of the United States to recover the full amount of damages sustained in consequence of any such violation and obtain such orders from the court as are necessary to terminate existing violations and to prevent future violations; or such regulated local telephone exchange carrier may seek relief from the Commission pursuant to sections 206 through 209.

"(k) EXISTING MANUFACTURING AUTHORITY.—Nothing in this section shall prohibit any Bell operating company from engaging, directly or through any affiliate, in any manufacturing activity in which any Bell operating company or affiliate was authorized to engage on the date of enactment of this section.

"(l) ANTITRUST LAWS.—Nothing in this section shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws (including title I of the Antitrust and Communications Reform Act of 1994).

"(m) DEFINITIONS.—As used in this section:

"(1) The term 'affiliate' means any organization or entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under common ownership with a Bell operating company. The terms 'owns', 'owned', and 'ownership' mean an equity interest of more than 10 percent.

"(2) The term 'Bell operating company' means those companies listed in appendix A of the Modification of Final Judgment, and includes any successor or assign of any such company, but does not include any affiliate of any such company.

"(3) The term 'customer premises equipment' means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

"(4) The term 'manufacturing' has the same meaning as such term has under the Modification of Final Judgment.

"(5) The term 'manufacturing affiliate' means an affiliate of a Bell operating company established in accordance with subsection (b) of this section.

"(6) The term 'Modification of Final Judgment' means the decree entered August 24, 1982, in United States v. Western Electric Civil Action No. 82-0192 (United States District Court, District of Columbia), and includes any judgment or order with respect to such action entered on or after August 24, 1982, and before the date of enactment of this section.

"(7) The term 'telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

"(8) The term 'telecommunications equipment' means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services, and includes software integral to such equipment (including upgrades).

"(9) The term 'telecommunications service' means the offering for hire of telecommunications facilities, or of telecommunications by means of such facilities."

SEC. 202. REGULATION OF ENTRY INTO ALARM MONITORING SERVICES.

(a) AMENDMENT.—Title II of the Communications Act is amended by adding at the end the following new section:

"SEC. 230. REGULATION OF ENTRY INTO ALARM MONITORING SERVICES.

"(a) REGULATIONS REQUIRED.—The Commission shall prescribe regulations—

"(1) to establish such requirements, limitations, or conditions as are (A) necessary and appropriate in the public interest with respect to the provision of alarm monitoring services by Bell operating companies and their affiliates, and (B) effective at such time as a Bell operating company or any of its affiliates is authorized to provide alarm monitoring services;

"(2) to prohibit Bell operating companies and their affiliates, at that or any earlier time after the date of enactment of this section, from recording or using in any fashion the occurrence or the contents of calls received by providers of alarm monitoring services for the purposes of marketing such services on behalf of the Bell operating company, any of its affiliates, or any other entity; and

"(3) to establish procedures for the receipt and review of complaints concerning violations by such companies of such regulations, or of any other provision of this Act or the regulations thereunder, that result in material financial harm to a provider of alarm monitoring services.

"(b) EXPEDITED CONSIDERATION OF COMPLAINTS.—The procedures established under subsection (a)(3) shall ensure that the Commission will make a final determination with respect to any complaint described in such subsection within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, issue a cease and desist order to prevent the Bell operating company and its affiliates from continuing to engage in such violation pending such final determination.

"(c) REMEDIES.—The Commission may use any remedy available under title V of this Act to terminate and punish violations described in subsection (a)(2). Such remedies may include, if the Commission determines that such violation was willful or repeated, ordering the Bell operating company to cease offering alarm monitoring services.

"(d) RULEMAKING SCHEDULE.—The Commission shall prescribe the regulations required by subsection (a)(2) within 180 days after the date of enactment of this section and shall prescribe the regulations required by subsection (a)(1) and (a)(3) prior to the date on which any Bell operating company may commence providing alarm monitoring services pursuant to title I of the Antitrust and Communication Reform Act of 1994.

"(e) DEFINITIONS.—As used in this section:

"(1) BELL OPERATING COMPANY.—The term 'Bell operating company' has the meaning provided in subparagraphs (A) or (B) of section 106(5) of the Antitrust and Communication Reform Act of 1994.

"(2) ALARM MONITORING SERVICES.—The term 'alarm monitoring services' has the meaning provided in section 106(2) of such Act.

"(3) AFFILIATE.—The term 'affiliate' means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, to own refers to owning an equity interest (or the equivalent thereof) of more than 10 percent."

SEC. 203. REGULATION OF ELECTRONIC PUBLISHING.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 231. REGULATION OF ELECTRONIC PUBLISHING.

"(a) IN GENERAL.—

"(1) PROHIBITION.—A Bell operating company and any affiliate shall not engage in the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(2) PERMITTED ACTIVITIES OF SEPARATED AFFILIATE.—Nothing in this section shall prohibit a separated affiliate or electronic publishing joint venture from engaging in the provision of electronic publishing or any other lawful service in any area.

"(3) RULE OF CONSTRUCTION.—Nothing in this section shall prohibit a Bell operating company or affiliate from engaging in the provision of any lawful service other than electronic publishing in any area or from en-

gaging in the provision of electronic publishing that is not disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(b) SEPARATED AFFILIATE OR ELECTRONIC PUBLISHING JOINT VENTURE REQUIREMENTS.—A separated affiliate or electronic publishing joint venture shall—

"(1) maintain books, records, and accounts that are separate from those of the Bell operating company and from any affiliate and that record in accordance with generally accepted accounting principles all transactions, whether direct or indirect, with the Bell operating company;

"(2) not incur debt in a manner that would permit a creditor upon default to have recourse to the assets of the Bell operating company;

"(3) prepare financial statements that are not consolidated with those of the Bell operating company or an affiliate, provided that consolidated statements may also be prepared;

"(4) file with the Commission annual reports in a form substantially equivalent to the Form 10-K required by regulations of the Securities and Exchange;

"(5) after 1 year from the effective date of this section, not hire—

"(A) as corporate officers, sales and marketing management personnel whose responsibilities at the separated affiliate or electronic publishing joint venture will include the geographic area where the Bell operating company provides basic telephone service;

"(B) network operations personnel whose responsibilities at the separated affiliate or electronic publishing joint venture would require dealing directly with the Bell operating company; or

"(C) any person who was employed by the Bell operating company during the year preceding their date of hire,

except that the requirements of this paragraph shall not apply to persons subject to a collective bargaining agreement that gives such persons rights to be employed by a separated affiliate or electronic publishing joint venture of the Bell operating company;

"(6) not provide any wireline telephone exchange service in any telephone exchange area where a Bell operating company with which it is under common ownership or control provides basic telephone exchange service except on a resale basis;

"(7) not use the name, trademarks, or service marks of an existing Bell operating company except for names, trademarks, or service marks that are or were used in common with the entity that owns or controls the Bell operating company;

"(8) have performed annually by March 31, or any other date prescribed by the Commission, a compliance review—

"(A) that is conducted by an independent entity that is subject to professional, legal, and ethical obligations for the purpose of determining compliance during the preceding calendar year with any provision of this section that imposes a requirement on such separated affiliate or electronic publishing joint venture; and

"(B) the results of which are maintained by the separated affiliate for a period of 5 years subject to review by any lawful authority;

"(9) within 90 days of receiving a review described in paragraph (8), file a report of any exceptions and corrective action with the Commission and allow any person to inspect and copy such report subject to reasonable safeguards to protect any proprietary information contained in such report from being

used for purposes other than to enforce or pursue remedies under this section.

"(C) BELL OPERATING COMPANY REQUIREMENTS.—A Bell operating company under common ownership or control with a separated affiliate or electronic publishing joint venture shall—

"(1) not provide a separated affiliate any facilities, services, or basic telephone service information unless it makes such facilities, services, or information available to unaffiliated entities upon request and on the same terms and conditions;

"(2) carry out transactions with a separated affiliate in a manner equivalent to the manner that unrelated parties would carry out independent transactions and not based upon the affiliation;

"(3) carry out transactions with a separated affiliate, which involve the transfer of personnel, assets, or anything of value, pursuant to written contracts or tariffs that are filed with the Commission and made publicly available;

"(4) carry out transactions with a separated affiliate in a manner that is auditable in accordance with generally accepted auditing standards;

"(5) value any assets that are transferred to a separated affiliate at the greater of net book cost or fair market value;

"(6) value any assets that are transferred to the Bell operating company by its separated affiliate at the lesser of net book cost or fair market value;

"(7) except for—

"(A) instances where Commission or State regulations permit in-arrears payment for tariffed telecommunications services; or

"(B) the investment by an affiliate of dividends or profits derived from a Bell operating company,

not provide debt or equity financing directly or indirectly to a separated affiliate;

"(8) comply fully with all applicable Commission and State cost allocation and other accounting rules;

"(9) have performed annually by March 31, or any other date prescribed by the Commission, a compliance review—

"(A) that is conducted by an independent entity that is subject to professional, legal, and ethical obligations for the purpose of determining compliance during the preceding calendar year with any provision of this section that imposes a requirement on such Bell operating company; and

"(B) the results of which are maintained by the Bell operating company for a period of 5 years subject to review by any lawful authority;

"(10) within 90 days of receiving a review described in paragraph (9), file a report of any exceptions and corrective action with the Commission and allow any person to inspect and copy such report subject to reasonable safeguards to protect any proprietary information contained in such report from being used for purposes other than to enforce or pursue remedies under this section;

"(11) if it provides facilities or services for telecommunication, transmission, billing and collection, or physical collocation to any electronic publisher, including a separated affiliate, for use with or in connection with the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service, provide to all other electronic publishers the same type of facilities and services on request, on the same terms and conditions or as required by the Commission or a State, and unbundled and individually tariffed to the smallest extent

that is technically feasible and economically reasonable to provide;

"(12) provide network access and interconnections for basic telephone service to electronic publishers at any technically feasible and economically reasonable point within the Bell operating company's network and at just and reasonable rates that are tariffed (so long as rates for such services are subject to regulation) and that are not higher on a per-unit basis than those charged for such services to any other electronic publisher or any separated affiliate engaged in electronic publishing;

"(13) if prices for network access and interconnection for basic telephone service are no longer subject to regulation, provide electronic publishers such services on the same terms and conditions as a separated affiliate receives such services;

"(14) if any basic telephone service used by electronic publishers ceases to require a tariff, provide electronic publishers with such service on the same terms and conditions as a separated affiliate receives such service;

"(15) provide reasonable advance notification at the same time and on the same terms to all affected electronic publishers of information if such information is within any one or more of the following categories:

"(A) such information is necessary for the transmission or routing of information by an interconnected electronic publisher;

"(B) such information is necessary to ensure the interoperability of an electronic publisher's and the Bell operating company's networks; or

"(C) such information concerns changes in basic telephone service network design and technical standards which may affect the provision of electronic publishing;

"(16) not directly or indirectly provide anything of monetary value to a separated affiliate unless in exchange for consideration at least equal to the greater of its net book cost or fair market value, except the investment by an affiliate of dividends or profits derived from a Bell operating company;

"(17) not discriminate in the presentation or provision of any gateway for electronic publishing services or any electronic directory of information services, which is provided over such Bell operating company's basic telephone service;

"(18) have no directors, officers, or employees in common with a separated affiliate;

"(19) not own any property in common with a separated affiliate;

"(20) not perform hiring or training of personnel performed on behalf of a separated affiliate;

"(21) not perform the purchasing, installation, or maintenance of equipment on behalf of a separated affiliate, except for telephone service that it provides under tariff or contract subject to the provisions of this section; and

"(22) not perform research and development on behalf of a separated affiliate.

"(d) CUSTOMER PROPRIETARY NETWORK INFORMATION.—Consistent with section 232 of this Act, a Bell operating company or any affiliate shall not provide to any electronic publisher, including a separated affiliate or electronic publishing joint venture, customer proprietary network information for use with or in connection with the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service that is not made available by the Bell operating company or affiliate to all electronic publishers on the same terms and conditions.

"(e) COMPLIANCE WITH SAFEGUARDS.—No Bell operating company or affiliate thereof

(including a separated affiliate) shall act in concert with another Bell operating company or any other entity in order to knowingly and willfully violate or evade the requirements of this section.

"(f) TELEPHONE OPERATING COMPANY DIVIDENDS.—Nothing in this section shall prohibit an affiliate from investing dividends derived from a Bell operating company in its separated affiliate, and subsections (i) and (j) of this section shall not apply to any such investment.

"(g) JOINT MARKETING.—Except as provided in subsection (h)—

"(1) a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with a separated affiliate; and

"(2) a Bell operating company shall not carry out any promotion, marketing, sales, or advertising for or in conjunction with an affiliate that is related to the provision of electronic publishing.

"(h) PERMISSIBLE JOINT ACTIVITIES.—

"(1) JOINT TELEMARKETING.—A Bell operating company may provide inbound telemarketing or referral services related to the provision of electronic publishing for a separated affiliate, electronic publishing joint venture, affiliate, or unaffiliated electronic publisher, provided that if such services are provided to a separated affiliate, electronic publishing joint venture, or affiliate, such services shall be made available to all electronic publishers on request, on nondiscriminatory terms, at compensatory prices, and subject to regulations of the Commission to ensure that the Bell operating company's method of providing telemarketing or referral and its price structure do not competitively disadvantage any electronic publishers regardless of size, including those which do not use the Bell operating company's telemarketing services.

"(2) TEAMING ARRANGEMENTS.—A Bell operating company may engage in nondiscriminatory teaming or business arrangements to engage in electronic publishing with any separated affiliate or with any other electronic publisher provided that the Bell operating company only provides facilities, services, and basic telephone service information as authorized by this section and provided that the Bell operating company does not own such teaming or business arrangement.

"(3) ELECTRONIC PUBLISHING JOINT VENTURES.—A Bell operating company or affiliate may participate on a nonexclusive basis in electronic publishing joint ventures with entities that are not any Bell operating company, affiliate, or separated affiliate to provide electronic publishing services, provided that the Bell operating company or affiliate has not more than a 50 percent direct or indirect equity interest (or the equivalent thereof) or the right to more than 50 percent of the gross revenues under a revenue sharing or royalty agreement in any electronic publishing joint venture. Officers and employees of a Bell operating company or affiliate participating in an electronic publishing joint venture may not have more than 50 percent of the voting control over the electronic publishing joint venture. In the case of joint ventures with small, local electronic publishers, the Commission for good cause shown may authorize the Bell operating company or affiliate to have a larger equity interest, revenue share, or voting control but not to exceed 80 percent. A Bell operating company participating in an electronic publishing joint venture may provide promotion, marketing, sales, or advertising personnel and services to such joint venture.

“(i) TRANSACTIONS RELATED TO THE PROVISION OF ELECTRONIC PUBLISHING BETWEEN A TELEPHONE OPERATING COMPANY AND ANY AFFILIATE.—

“(1) RECORDS OF TRANSACTIONS.—Any provision of facilities, services, or basic telephone service information, or any transfer of assets, personnel, or anything of commercial or competitive value, from a Bell operating company to any affiliate related to the provision of electronic publishing shall be—

“(A) recorded in the books and records of each entity;

“(B) auditable in accordance with generally accepted auditing standards; and

“(C) pursuant to written contracts or tariffs filed with the Commission or a State and made publicly available.

“(2) VALUATION OF TRANSFERS.—Any transfer of assets directly related to the provision of electronic publishing from a Bell operating company to an affiliate shall be valued at the greater of net book cost or fair market value. Any transfer of assets related to the provision of electronic publishing from an affiliate to the Bell operating company shall be valued at the lesser of net book cost or fair market value.

“(3) PROHIBITION OF EVASIONS.—A Bell operating company shall not provide directly or indirectly to a separated affiliate any facilities, services, or basic telephone service information related to the provision of electronic publishing that are not made available to unaffiliated companies on the same terms and conditions.

“(j) TRANSACTIONS RELATED TO THE PROVISION OF ELECTRONIC PUBLISHING BETWEEN AN AFFILIATE AND A SEPARATED AFFILIATE.—

“(1) RECORDS OF TRANSACTIONS.—Any facilities, services, or basic telephone service information provided or any assets, personnel, or anything of commercial or competitive value transferred, from a Bell operating company to any affiliate as described in subsection (i) and then provided or transferred to a separated affiliate shall be—

“(A) recorded in the books and records of each entity;

“(B) auditable in accordance with generally accepted auditing standards; and

“(C) pursuant to written contracts or tariffs filed with the Commission or a State and made publicly available.

“(2) VALUATION OF TRANSFERS.—Any transfer of assets directly related to the provision of electronic publishing from a Bell operating company to any affiliate as described in subsection (i) and then transferred to a separated affiliate shall be valued at the greater of net book cost or fair market value. Any transfer of assets related to the provision of electronic publishing from a separated affiliate to the Bell operating company as described in subsection (i) shall be valued at the lesser of net book cost or fair market value.

“(3) PROHIBITION OF EVASIONS.—An affiliate shall not provide directly or indirectly to a separated affiliate any facilities, services, or basic telephone service information related to the provision of electronic publishing that are not made available to unaffiliated companies on the same terms and conditions.

“(k) OTHER ELECTRONIC PUBLISHERS.—Except as provided in subsection (h)(3)—

“(1) A Bell operating company shall not have any officers, employees, property, or facilities in common with any entity whose principal business is publishing of which a part is electronic publishing.

“(2) No officer or employee of a Bell operating company shall serve as a director of any entity whose principal business is pub-

lishing of which a part is electronic publishing.

“(3) For the purposes of paragraphs (1) and (2), a Bell operating company or an affiliate that owns an electronic publishing joint venture shall not be deemed to be engaged in the electronic publishing business solely because of such ownership.

“(4) A Bell operating company shall not carry out—

“(A) any marketing or sales for any entity that engages in electronic publishing; or

“(B) any hiring of personnel, purchasing, or production,

for any entity that engages in electronic publishing.

“(5) The Bell operating company shall not provide any facilities, services, or basic telephone service information to any entity that engages in electronic publishing, for use with or in connection with the provision of electronic publishing that is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service, unless equivalent facilities, services, or information are made available on equivalent terms and conditions to all.

“(l) TRANSITION.—Any electronic publishing service being offered to the public by a Bell operating company or affiliate on the date of enactment of this section shall have one year from such date of enactment to comply with the requirements of this section.

“(m) SUNSET.—The provisions of this section shall not apply to conduct occurring after June 30, 2000.

“(n) PRIVATE RIGHT OF ACTION.—

“(1) DAMAGES.—Any person claiming that any act or practice of any Bell operating company, affiliate, or separated affiliate constitutes a violation of this section may file a complaint with the Commission or bring suit as provided in section 207 of this Act, and such Bell operating company, affiliate, or separated affiliate shall be liable as provided in section 206 of this Act, except that damages may not be awarded for a violation that is discovered by a compliance review as required by subsection (b)(8) or (c)(9) of this section and corrected within 90 days.

“(2) CEASE AND DESIST ORDERS.—In addition to the provisions of paragraph (1), any person claiming that any act or practice of any Bell operating company, affiliate, or separated affiliate constitutes a violation of this section may make application to the Commission for an order to cease and desist such violation or may make application in any district court of the United States of competent jurisdiction for an order enjoining such acts or practices or for an order compelling compliance with such requirement.

“(o) ANTITRUST LAWS.—Nothing in this section shall be construed to modify, impair, or supersede the applicability of any of the antitrust laws (including title I of the Antitrust and Communications Reform Act of 1994).

“(p) EQUAL EMPLOYMENT OPPORTUNITIES.—Any Bell operating company, and any affiliate or joint venture or other business partner of a Bell operating company, that is engaged in the provision of electronic publishing shall be subject to the provisions of section 634 of this Act, except that the Commission shall prescribe by regulation appropriate job classifications in lieu of the job classifications in subsection (d)(3)(A) of such section.

“(q) DEFINITIONS.—As used in this section—

“(1) The term ‘affiliate’ means any entity that, directly or indirectly, owns or controls, is owned or controlled by, or is under com-

mon ownership or control with, a Bell operating company. Such term shall not include a separated affiliate.

“(2) The term ‘basic telephone service’ means any wireline telephone exchange service, or wireline telephone exchange facility, provided by a Bell operating company in a telephone exchange area, except—

“(A) a competitive wireline telephone exchange service provided in a telephone exchange area where another entity provides a wireline telephone exchange service that was provided on January 1, 1984, and

“(B) a commercial mobile service provided by an affiliate that is required by the Commission to be a corporate entity separate from the Bell operating company.

“(3) The term ‘basic telephone service information’ means network and customer information of a Bell operating company and other information acquired by a Bell operating company as a result of its engaging in the provision of basic telephone service.

“(4) The term ‘control’ has the meaning that it has in 17 C.F.R. 240.12b-2, the regulations promulgated by the Securities and Exchange Commission pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or any successor provision to such section.

“(5)(A) The term ‘electronic publishing’ means the dissemination, provision, publication, or sale to an unaffiliated entity or person, using a Bell operating company's basic telephone service, of—

“(i) news,

“(ii) entertainment (other than interactive games),

“(iii) business, financial, legal, consumer, or credit material;

“(iv) editorials;

“(v) columns;

“(vi) sports reporting;

“(vii) features;

“(viii) advertising;

“(ix) photos or images;

“(x) archival or research material;

“(xi) legal notices or public records;

“(xii) scientific, educational, instructional, technical, professional, trade, or other literary materials; or

“(xiii) other like or similar information.

“(B) The term ‘electronic publishing’ shall not include the following network services:

“(i) Information access, as that term is defined by the Modification of Final Judgment.

“(ii) The transmission of information as a common carrier.

“(iii) The transmission of information as part of a gateway to an information service that does not involve the generation or alteration of the content of information, including data transmission, address translation, protocol conversion, billing management, introductory information content, and navigational systems that enable users to access electronic publishing services, which do not affect the presentation of such electronic publishing services to users.

“(iv) Voice storage and retrieval services, including voice messaging and electronic mail services.

“(v) Level 2 gateway services as those services are defined by the Commission's Second Report and Order, Recommendation to Congress and Second Further Notice of Proposed Rulemaking in CC Docket No. 87-266 dated August 14, 1992.

“(vi) Data processing services that do not involve the generation or alteration of the content of information.

“(vii) Transaction processing systems that do not involve the generation or alteration of the content of information.

"(viii) Electronic billing or advertising of a Bell operating company's regulated telecommunications services.

"(ix) Language translation.

"(x) Conversion of data from one format to another.

"(xi) The provision of information necessary for the management, control, or operation of a telephone company telecommunications system.

"(xii) The provision of directory assistance that provides names, addresses, and telephone numbers and does not include advertising.

"(xiii) Caller identification services.

"(xiv) Repair and provisioning databases for telephone company operations.

"(xv) Credit card and billing validation for telephone company operations.

"(xvi) 911-E and other emergency assistance databases.

"(xvii) Any other network service of a type that is like or similar to these network services and that does not involve the generation or alteration of the content of information.

"(xviii) Any upgrades to these network services that do not involve the generation or alteration of the content of information.

"(C) The term 'electronic publishing' also shall not include—

"(i) full motion video entertainment on demand; and

"(ii) video programming as defined in section 602 of the Communications Act of 1934.

"(6) The term 'electronic publishing joint venture' means a joint venture owned by a Bell operating company or affiliate that engages in the provision of electronic publishing which is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(7) The term 'entity' means any organization, and includes corporations, partnerships, sole proprietorships, associations, and joint ventures.

"(8) The term 'inbound telemarketing' means the marketing of property, goods, or services by telephone to a customer or potential customer who initiated the call.

"(9) The term 'own' with respect to an entity means to have a direct or indirect equity interest (or the equivalent thereof) of more than 10 percent of an entity, or the right to more than 10 percent of the gross revenues of an entity under a revenue sharing or royalty agreement.

"(10) The term 'separated affiliate' means a corporation under common ownership or control with a Bell operating company that does not own or control a Bell operating company and is not owned or controlled by a Bell operating company and that engages in the provision of electronic publishing which is disseminated by means of such Bell operating company's or any of its affiliates' basic telephone service.

"(11) The term 'Bell operating company' means the corporations subject to the Modification of Final Judgment and listed in Appendix A thereof, or any entity owned or controlled by such corporation, or any successor or assign of such corporation, but does not include an electronic publishing joint venture owned by such corporation or entity."

SEC. 204. PRIVACY OF CUSTOMER INFORMATION. (a) PRIVACY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.—

(1) AMENDMENT.—Title II of the Communications Act of 1934 is amended by adding at the end the following new section:

"SEC. 232. PRIVACY OF CUSTOMER PROPRIETARY NETWORK INFORMATION.

"(a) DUTY TO PROVIDE SUBSCRIBER LIST INFORMATION.—Notwithstanding subsections

(b), (c), and (d), a carrier that provides subscriber list information to any affiliated or unaffiliated service provider or person shall provide subscriber list information on a timely and unbundled basis, under non-discriminatory and reasonable rates, terms, and conditions, to any person upon request.

"(b) PRIVACY REQUIREMENTS FOR COMMON CARRIERS.—A carrier—

"(1) shall not, except as required by law or with the approval of the customer to which the information relates—

"(A) use customer proprietary network information in the provision of any service except to the extent necessary (i) in the provision of common carrier communications services, (ii) in the provision of a service necessary to or used in the provision of common carrier communications services, including the publishing of directories, or (iii) to continue to provide a particular information service that the carrier provided as of March 15, 1994, to persons who were customers of such service on that date;

"(B) use customer proprietary network information in the identification or solicitation of potential customers for any service other than the service from which such information is derived;

"(C) use customer proprietary network information in the provision of customer premises equipment; or

"(D) disclose customer proprietary network information to any person except to the extent necessary to permit such person to provide services or products that are used in and necessary to the provision by such carrier of the services described in subparagraph (A);

"(2) shall disclose customer proprietary network information, upon affirmative written request by the customer, to any person designated by the customer;

"(3) shall, whenever such carrier provides any aggregate information, notify the Commission of the availability of such aggregate information and shall provide such aggregate information on reasonable terms and conditions to any other service or equipment provider upon reasonable request therefor; and

"(4) except for disclosures permitted by paragraph (1)(D), shall not unreasonably discriminate between affiliated and unaffiliated service or equipment providers in providing access to, or in the use and disclosure of, individual and aggregate information made available consistent with this subsection.

"(c) RULE OF CONSTRUCTION.—This section shall not be construed to prohibit the use or disclosure of customer proprietary network information as necessary—

"(1) to render, bill, and collect for the services identified in subparagraph (A);

"(2) to render, bill, and collect for any other service that the customer has requested;

"(3) to protect the rights or property of the carrier;

"(4) to protect users of any of those services and other carriers from fraudulent, abusive, or unlawful use of or subscription to such service; or

"(5) to provide any inbound telemarketing, referral, or administrative services to the customer for the duration of the call if such call was initiated by the customer and the customer approves of the use of such information to provide such service.

"(d) EXEMPTION PERMITTED.—The Commission may, by rule, exempt from the requirements of subsection (b) carriers that have, together with any affiliated carriers, in the aggregate nationwide, fewer than 500,000 access lines installed if the Commission deter-

mines that such exemption is in the public interest or if compliance with the requirements would impose an undue economic burden on the carrier.

"(e) REGULATIONS.—The Commission shall prescribe regulations to carry out this section within 1 year after the date of its enactment.

"(f) DEFINITION OF AGGREGATE INFORMATION.—For purposes of this section, the term 'aggregate information' means collective data that relates to a group or category of services or customers, from which individual customer identities and characteristics have been removed."

(2) CONFORMING AMENDMENT.—Section 3 of the Communications Act of 1934 (47 U.S.C. 153) is amended by adding at the end the following:

"(gg) 'Customer proprietary network information' means—

"(1) information which relates to the quantity, technical configuration, type, destination, and amount of use of telephone exchange service or telephone toll service subscribed to by any customer of a carrier, and is made available to the carrier by the customer solely by virtue of the carrier-customer relationship;

"(2) information contained in the bills pertaining to telephone exchange service or telephone toll service received by a customer of a carrier; and

"(3) such other information concerning the customer as is available to the local exchange carrier by virtue of the customer's use of the carrier's telephone exchange service or interexchange telephone services, and specified as within the definition of such term by such rules as the Commission shall prescribe consistent with the public interest; except that such term does not include subscriber list information.

"(hh) 'Subscriber list information' means any information—

"(1) identifying the listed names of subscribers of a carrier and such subscribers' telephone numbers, addresses, or primary advertising classifications, or any combination of such listed names, numbers, addresses, or classifications; and

"(2) that the carrier or an affiliate has published or accepted for future publication."

(b) IMPACT OF CONVERGING COMMUNICATIONS TECHNOLOGIES ON CONSUMER PRIVACY.—

(1) PROCEEDING REQUIRED.—Within one year after the date of enactment of this Act, the Commission shall commence a proceeding—

(A) to examine the impact of the integration into interconnected communications networks of wireless telephone, cable, satellite, and other technologies on the privacy rights and remedies of the consumers of those technologies;

(B) to examine the impact that the globalization of such integrated communications networks has on the international dissemination of consumer information and the privacy rights and remedies to protect consumers;

(C) to propose changes in the Commission's regulations to ensure that the effect on consumer privacy rights is considered in the introduction of new telecommunications services and that the protection of such privacy rights is incorporated as necessary in the design of such services or the rules regulating such services;

(D) to propose changes in the Commission's regulations as necessary to correct any defects identified pursuant to subparagraph (A) in such rights and remedies; and

(E) to prepare recommendations to the Congress for any legislative changes required to correct such defects.

(2) **SUBJECTS FOR EXAMINATION.**—In conducting the examination required by paragraph (1), the Commission shall determine whether consumers are able, and, if not, the methods by which consumers may be enabled—

(A) to have knowledge that consumer information is being collected about them through their utilization of various communications technologies;

(B) to have notice that such information could be used, or is intended to be used, by the entity collecting the data for reasons unrelated to the original communications, or that such information could be sold (or is intended to be sold) to other companies or entities; and

(C) to stop the reuse or sale of that information.

(3) **SCHEDULE FOR COMMISSION RESPONSES.**—The Commission shall, within 18 months after the date of enactment of this Act—

(A) complete any rulemaking required to revise Commission regulations to correct defects in such regulations identified pursuant to paragraph (1); and

(B) submit to the Congress a report containing the recommendations required by paragraph (1)(C).

SEC. 205. TELEMESSAGING SERVICES.

Title II of the Communications Act of 1934 (47 U.S.C. 201 et seq.) is amended by adding at the end thereof the following new section: "SEC. 233. TELEMESSAGING SERVICES.

"(a) **NONDISCRIMINATION.**—A common carrier engaged in the provision of telemessaging services shall—

"(1) provide nonaffiliated entities, upon reasonable request, with the network services it provides to its own telemessaging operations, on nondiscriminatory terms and conditions; and

"(2) not subsidize its telemessaging services with revenues from telephone exchange service.

"(b) **EXPEDITED CONSIDERATION OF COMPLAINTS.**—The Commission shall establish procedures for the receipt and review of complaints concerning violations of subsection (a) or the regulations thereunder that result in material financial harm to a provider of telemessaging service. Such procedures shall ensure that the Commission will make a final determination with respect to any such complaint within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, order the common carrier and its affiliates to cease engaging in such violation pending such final determination.

"(c) **DEFINITIONS.**—As used in this section, the term 'telemessaging services' means voice mail and voice storage and retrieval services provided over telephone lines for telemessaging customers and any live operator services used to answer, record, transcribe, and relay messages (other than telecommunications relay services) from incoming telephone calls on behalf of the telemessaging customers (other than any service incidental to directory assistance)."

SEC. 206. ENHANCED SERVICES SAFEGUARDS.

Within 60 days after the date of the enactment of this Act, the Commission shall initiate a proceeding to reconsider its decision in the Report and Order In the Matter of Computer III Remand Proceedings, CC Docket No. 90-623, released December 20, 1993, relieving the Bell operating companies of the obligation to provide enhanced services through

fully separate affiliates. Within 180 days after the date of the enactment of this Act, the Commission shall, to the extent it determines necessary or appropriate in the public interest, adopt regulations prescribing the structural or nonstructural safeguards, or both, with which local exchange carriers shall comply when providing enhanced services.

TITLE III—FEDERAL COMMUNICATIONS COMMISSION RESOURCES

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—In addition to any other sums authorized by law, there are authorized to be appropriated to the Federal Communications Commission such sums as may be necessary to carry out this Act and the amendments made by this Act.

(b) **EFFECT ON FEES.**—For purposes of section 9(b)(2) of the Communications Act of 1934 (47 U.S.C. 159(b)(2)), additional amounts appropriated pursuant to subsection (a) shall be construed to be changes in the amounts appropriated for the performance of activities described in section 9(a) of such Act.

The **SPEAKER pro tempore.** Pursuant to the rule, the gentleman from Texas [Mr. BROOKS] will be recognized for 20 minutes, and the gentleman from New York [Mr. FISH] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas.

Mr. **BROOKS.** Mr. Speaker, I yield 10 minutes to the gentleman from Michigan [Mr. DINGELL], and, Mr. Speaker, I ask unanimous consent that the gentleman from Michigan may control that time and yield blocks of that time to other Members.

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

There was no objection.

Mr. **FISH.** Mr. Speaker, I yield 10 minutes of my time to the gentleman from California [Mr. MOORHEAD], and I ask unanimous consent that the gentleman from California be permitted to yield blocks of such time.

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

There was no objection.

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

Mr. Speaker, I am delighted to call up H.R. 3626, landmark telecommunications legislation, standing side-by-side with my good friend Chairman JOHN DINGELL. It is beyond understatement to say that bringing up a unified version of this type of legislation under suspension of the rules was not an easy achievement. As everyone in this Chamber well knows, both of us had originally approached the process from almost diametrically opposed philosophical points of view about the proper role of antitrust and regulatory oversight.

But during the past year and a half, we were able—working together—to fashion a bill that blended the strength and flexibility of fundamental antitrust principles with the need for public interest regulatory oversight. The

result, I believe, is a delicate yet durable balance to ensure well into the next century a vibrant telecommunications industry, which must remain a strategic asset in this Nation's world economic position.

This is a far cry from last Congress when there was a fragmented policy orientation in the courts, throughout the enforcement agencies and, yes, even in the Halls of Congress. As we stand here today, the naysayers all across this fine city are in profound disbelief. Where once there was immovable jurisdictional gridlock, we are now moving with the momentum of a bipartisan consensus regarding this vital sector of the economy, perhaps for the first time in 60 years.

However, let us not forget for a moment where we were even as recently as the beginning of the 102d Congress. At that time, piecemeal, fragmented—and frankly, one-sided—solutions were being offered up as legislation for various interests in the telecommunications industry. If ever there was a prescription for disaster for this highly strategic U.S. industry, it was to follow the path of such narrow-sided proposals. I came to the decision that a comprehensive approach to maintaining a competitive and diverse industry was needed and that Congress must take responsibility for doing so.

In doing so, I cautioned that my decision to move a comprehensive piece of legislation in no way to be construed as a referendum on the handling of the AT&T consent decree case by Judge Harold Greene. It was my view that Judge Greene had performed splendidly in this function, but that events—both in the private sector as well as in the Congress—might well short circuit his attempt to keep a unified view of competition as the central determinant in decisionmaking.

Moreover, as private business decisions continue to push the waiver process to the point of an overflowing court docket, there appeared a real possibility that delay in adjudicating these requests might become exacerbated to the detriment of all parties in their business planning. For all these reasons, I decided that it was essential that we move the forum from courtroom into the enforcement and regulatory agencies, while not abandoning the organizing principles behind the decree.

Thus, as I approached the legislation both in the last Congress and in this Congress, the two principles I held as irreducible were that, at the end of the day, the Department of Justice must have an independent role in reviewing Bell entry into now-prohibited sectors of the market; and that in reviewing such entry, the MFJ's antitrust entry test, the so-called 8(c) standard, must be applied. Finally, I insisted on an unambiguous antitrust savings clause so that even after entry by the Bells into

long distance, manufacturing or information services, the Department would have the full authority to pursue antitrust actions just as it would against any other industry where anticompetitiveness abuses might occur. I am grateful that these bedrock principles appear in the version of H.R. 3626 now before the House, and I give great credit to my good friend, Chairman JOHN DINGELL, for recognizing the value of antitrust in this historic effort even as he successfully made his own case to me that public interest determinations should also have an important and complementary role in the process.

There are many others who made achievement possible today. I want to especially commend the ranking member of my committee, Congressman HAMILTON FISH, for his excellent work throughout the entire process. In addition, the unflagging efforts of Congressman MIKE SYNAR, RICK BOUCHER, and JOHN BRYANT, to name just a few, helped build support for a reasonable and politically viable legislative product that could be supported in our respective committees and on the floor.

Chairman DINGELL and I were both determined to have this legislation come before the full House before the July 4th recess so that the other body would have the time and the inclination to act. We are hopeful that they will, and that the conference report can be sent to the President's desk for signature before Congress adjourns in October.

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

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

Mr. Speaker, I rise in support of the Antitrust and Communications Reform Act of 1994, H.R. 3626. This legislation represents the most sweeping communications reform legislation to be considered in this House in 60 years. It will establish the ground rules for telecommunications policy in our Nation as we proceed into the 21st century. If enacted, this measure will have much to say about the future health of the American economy, America's international competitiveness and expanded job opportunities for American workers.

This legislation establishes a statutory framework under which the seven regional Bell telephone companies and their affiliates would be permitted to provide certain long distance services and engage in the manufacture of telecommunications equipment. The Bell operating companies are currently prohibited from entering these lines of business under the terms of the antitrust consent decree—the modification of final judgment or MFJ—which governed the breakup of the then-unified AT&T Bell system. That consent decree was entered into by AT&T and the Department of Justice in 1982 and became effective on January 1, 1984.

Thus, H.R. 3626 would supersede the MFJ and establish a new policy framework under which the Federal Communications Commission and the Justice Department would administer local telephone company business activities. Under its terms, the Bell operating companies could apply immediately upon enactment for permission to enter into manufacturing and would be permitted to engage in manufacturing within a year after the date of enactment. Similarly, the Bell companies can apply immediately after enactment to both the FCC and the Justice Department to be allowed to provide long distance services. The Bells may submit as many applications—broad or narrow in scope—as they choose.

The bill does not include general provisions concerning Bell company involvement in information services, since those MFJ-based restrictions were lifted by the courts in 1991. *U.S. v. Western Electric Co., et. al.*, 900 F.2d 283 (D.C. Cir., 1990), cert. den. 111 S. Ct. 283 (1990); *U.S. v. Western Electric Co.*, 767 F. Supp. (D.D.C., 1991). However, this legislation does include provisions governing Bell entry into alarm monitoring services, permitting Bell entry into that business 5½ years after the date of enactment. Similarly, electronic publishing—which is also a subset of information services—is treated in title II of this legislation. Those provisions would incorporate into law the terms of agreements made between the regional Bell operating companies and the representatives of the newspaper publishers.

As of the date of enactment, the Bells may apply to enter into the long distance business. (§101(a)(1)(B); §101(a)(2)(A).) Within 10 days after receipt, the applications must be published in the FEDERAL REGISTER. (§101(a)(4).) Not later than 45 days after publication, interested persons may submit comments to either or both agencies. (§101(b)(1).) Consultation between the two agencies regarding an application is required. (§101(b)(2).) The agencies must issue written determinations on the applications within 180 days after receipt. (§101(b)(3)(A).) In deciding on the merits of the application, the Justice Department will apply the same competitive standard that is contained in section VIII(C) of the MFJ, that is "no substantial possibility that such company or its affiliates could use monopoly power to impede competition in the market such company seeks to enter." (§101(b)(3)(D)(i).) The FCC will apply the "public interest, convenience and necessity" test contained in the Communications Act. (§101(b)(3)(D)(ii).) Their determinations are to be based on the "preponderance of the evidence". (§101(b)(3)(B).) Both agencies must approve an application for it to be finally approved. (§101(b)(6).)

Not later than 45 days after the final determination (that is final agency ac-

tion) is published, "any person who would be threatened with loss or damage as a result of the determination" may bring an action for judicial review in the U.S. Court of Appeals for the District of Columbia to challenge the agencies' approval. (§101(c)(1).) This standing provision is patterned directly after section 16 of the Clayton Act. Under the Federal antitrust laws, actual injury or threatened loss or damage must be shown before persons can successfully gain access to a Federal court to challenge a particular action as anticompetitive. Thus, this is intended to be an exacting standing provision and not all interested persons would have standing to challenge the agencies' determination. Under this provision, court challenges are reserved for those that can show a genuine likelihood of injury—threatened loss or damage. This provision is not intended to encourage what could be obstructionist or strategic litigation.

Unlike the bill (H.R. 5096) sponsored by Congressman BROOKS in the 102d Congress, there is no de novo trial on the merits of an agency determination. Instead, there will be an appellate review based on the standard contained in the Administrative Procedure Act. 5 U.S.C. (§706.) It should be further emphasized that determinations made by Justice and the FCC under section 101(b)(3) are to be considered finally agency decisions in the administrative law meaning of that term. (The use of the term "final" in section 101(b)(5) should not be taken to mean "final agency action" for administrative law purposes. Rather, it means that if no civil action is filed under subsection (c), these determinations are no longer subject to appeal or review.) Bell entry into the authorized service would be lawful while the determination is the subject of an appeal under section 101(c). A Bell operating company can continue to provide this service until such time as one or both of the approvals is vacated or reversed as a result of judicial review. (§101(b)(6)(i).) Of course, a party could seek a preliminary injunction under the normal Federal civil rules, seeking to enjoin the provision of the authorized services pending the outcome of the judicial review action.

Generally speaking, before the Bell operating companies can enter into the long distance business, they must follow the application procedure set down in section 101 of the bill. There are, however, some significant exceptions to this general requirement. For example, section 101(b)(3)(D)(iii) directs Justice and the FCC to jointly prescribe regulations establishing procedures for the expedited determination and approval of applications for proposed long-distance services that are incidental to the provisions of another, already lawful service. These incidental

telecommunications services are in addition to those specified and authorized under section 102(c) of this bill.

Also exempt from the applicant requirement is any activity authorized by an order entered by the U.S. District Court for the District of Columbia under section VII or section VIII(C) of the Modification of Final Judgment prior to the date of enactment, or any waiver request pending on the date of enactment and subsequently approved by the District Court. §102(b)(1).

Further, the Bell companies are not required to apply seeking prior Federal authorization to offer intrastate long distance services—services provided within the boundaries of a single state. (§102(b)(2)(A).) So, the Bell companies would seek to receive State public utility—or public service—commission approval for providing intrastate interexchange telecommunications services. In doing so, they would be made subject to FCC and State regulations which require it to charge itself an access fee in the same manner it charges long-distance companies seeking access to the local exchanges. (§102(b)(2)(D).) However, under the terms of subsection 102(b)(2)(B), the Department of Justice would be given 90 days notice by a Bell company of its intent to provide such intrastate long-distance telecommunications services. The Justice Department would then have the option to request a preliminary injunction in a U.S. district court within those 90 days, with respect to such services if it believes a Bell entry would be anti-competitive. (§102(b)(2)(C).) If the Department brings no such civil action, or fails to obtain a preliminary injunction from the district court, it is fully lawful for the Bell company to begin providing those State-authorized services.

From the enactment of the Communications Act in 1934—until the AT&T consent decree took effect on January 1, 1984—all long-distance services within the States were regulated under the jurisdiction of the various state public utilities commissions [PUC's]. So, section 102(b)(2) of H.R. 3626 merely would return to the States their authority over all long-distance services delivered within their States. It should be understood that the States currently regulate long-distance services provided by the Bell companies within each LATA (that is, Local Access Transport Area). Every State has an agency that regulates public telephone companies. In my own State of New York it is known as the New York State Public Service Commission. They issue the "certificates of convenience and necessity" that authorize the local exchange companies and long-distance carriers to do business. They regulate the rates charged for local and interexchange telephone service. They make the decisions on the tariffs filed regarding new services to be offered or

the abandonment of any service or facility.

It should be emphasized that this legislation directs the States to take "into account the potential effects of such approval or authorization on competition and the public interest". (§102(b)(2)(A).) Of course, as noted earlier, the Justice Department would give 90 days to review the State's decision and seek an injunction if necessary. Again, if no injunction is sought, or if the request for an injunction is denied by the district court, then the Bell company may offer these services.

Also, the Bell companies would not be required to seek Federal pre-approval for long distance services that are provided through so-called resale services. (§102(b)(3).) That is, long-distance services which are purchased from another entity. This exception would apply only to services purchased from a nonaffiliate of the Bell company and only in those States where "1+ dialing" has been ordered. (§102(b)(3)(B).) As with intrastate long distance, the Department of Justice would have 90 days to review the competitive impact of Bell company resale services and the opportunity to seek an injunction when it determines that such entry would, in fact, be anticompetitive. (§102(b)(3)(D).)

Another major exception to the overall general rule requiring the Bell companies to apply to DOJ and FCC for permission, has to do with incidental services. Section 102(c) of the bill allows the Bell operating companies at any time after the date of enactment to provide interexchange telecommunications services which are deemed to be incidental to an otherwise lawful activity. So, for example, the bill identifies a number of activities to be exempt incidental services including, cable services and the distribution of cable programming, telephone service provided through cable companies outside of a Bell service area, interactive services, cellular telephone services, the transmission and retrieval of certain computer information, and the transmission of certain telephone network signaling information. (§102(c)(1)-(6).) As mentioned earlier, the bill requires the Justice Department and the FCC within 6 months of the date of enactment to establish procedures for the expedited consideration of applications by the Bell companies to provide other incidental long distance services. (§101(b)(3)(D)(iii).)

The bill generally permits the regional Bell companies and their operating affiliates to manufacture equipment, beginning a year after enactment, unless the Justice Department acts to stop them. (§103.) This bill creates a 1-year waiting period, during which the Department would review the company's plans and determine whether there is "no substantial possi-

bility" that the company or its affiliates could use monopoly power to impede competition in the market the company intends to enter. (§103(b)(2).) If the Department takes no action within that time, the company would be free to engage in the activity at the end of the 1 year. The Department would be permitted to shorten this waiting period by providing early notice to the Bell company that it does not intend to initiate any legal action. (§103(b)(1)(B)(ii).)

The bill includes numerous safeguards to prevent manufacturing affiliates from unfairly benefiting from their affiliation with Bell companies and vice versa. Under the measure, Bell operating companies must conduct their manufacturing activities through separate affiliates having their own financial books, records, and accounts, and it generally prohibits the Bell companies from providing any in-kind benefits such as advertising, sales, or maintenance. (§201.) Bell companies would be specifically prohibited from subsidizing their manufacturing affiliates with telephone revenues. The measure also requires manufacturing affiliates to sell their products to all telephone companies at prices and terms equal to the prices and terms it sells its equipment to its parent Bell company.

Section 201 of the bill contains a "domestic content" provision which sets down the general rule that a manufacturing affiliate must conduct all of its operations within the United States and that all component parts must also be of domestic manufacture. There is, however, an exception to this. Foreign manufactured component parts may be utilized if a good faith effort fails to secure equivalent parts manufactured within the United States, provided their cost does not exceed 40 percent of the sales revenue derived in any calendar year from the manufactured product. Furthermore, and most significantly, the general rule does not apply to the extent any of its provisions are determined to be inconsistent with any multilateral or bilateral agreement to which the United States is a party, such as a Bilateral Investment Treaty, the North American Free Trade Agreement, or GATT. This is an enlightened and fair resolution of a difficult problem—balancing competing interests.

Beginning 5½ years after enactment, the regional Bell companies and their operating affiliates are permitted to file applications to the Federal Government to provide alarm monitoring services. (§101(a)(1)(A).) As with Bell applications to provide long-distance services, the Justice Department and FCC would have to make separate determinations within 6 months whether the provisions of alarm services by a Bell company would impede competition or serve the public interest. The

measure requires the FCC to issue rules regulating Bell company provision of alarm monitoring services, and it permits the FCC to penalize Bell companies that violate FCC regulations—including ordering a company to cease providing such services. (§202.)

The measure establishes certain rules under which the Bell companies may provide electronic publishing services, including the dissemination, publication, or sale over telephone lines of news, business and financial reports, editorials, columns, sports reporting, features, advertising, photos or images, research material, legal notices and public records, and other such information. (§203.) These rules would expire June 30, 2000.

Section 203 would add a new section 231 to the Communications Act of 1934. It establishes a number of safeguards to ensure equal access to interconnections for all electronic publishers. Under its terms, the Bell companies would be permitted to provide electronic publishing services over their own telephone lines only if such services are provided through a separate affiliate or a joint venture with an electronic publisher. Furthermore, joint ventures between the Bell companies and newspaper publishers would be encouraged, and joint ventures between the Bells and small, local electronic publishers are encouraged in particular. The separate affiliates or joint ventures would be required to maintain their own books, records, and accounts, and could not engage in any joint sales, advertising, or marketing activities with affiliated Bell companies.

When the House Judiciary Committee considered this matter in March, I offered an amendment dealing with the definition of "electronic publishing." My concern focused on the fact that the definition in the bill as introduced appeared to be almost exclusively newspaper oriented. The problem, of course, is that a number of non-newspaper entities are engaged in the electronic publishing business. For example, the Economic and Commercial Law Subcommittee received testimony from the President of the West Publishing Co., who expressed the view that all content-based information should be included within this definition.

So, I felt that the protections contained in section 203 should extend to a novel, textbook, or scientific journal, as well as a newspaper. Similarly, magazines should be covered as well as electric legal research tools such as Westlaw and Lexis. Consequently, the legislation that comes to the floor of the House contains an expanded definition of the term "electronic publishing." For example, my amendment added "legal, consumer or credit material", "research material" and "public records." In addition, it clarified that electronic publishing includes "sci-

entific, educational, instructional, technical, professional, trade or other literary materials." It is important to note that the term "electronic publishing" does not include any of the out-of-region activities of a Bell company, nor does it include wireless or cellular services, or cable television.

Obviously, Mr. Speaker, this is very important legislation. If this bill is enacted, seven strong competitors will enter into new telecommunications markets, providing a broad range of additional products and services to their customers. This is justified because the boundaries between local service and long distance have blurred and, in some places, the local telephone exchange is no longer a monopoly. We need to provide the Bell companies with incentives to invest in their local networks. This bill replaces judicial oversight of national telecommunications policy with a sensible regulatory structure. At the same time, the legislation protects basic antitrust principles.

Given the lateness of the session and the importance of having this legislation enacted this year, the committees decided to go forward under the expedited procedure of suspension of the rules. It is my hope that the other body will give this important measure serious and prompt consideration. I strongly urge an "aye" vote on the part of my colleagues.

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

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

Mr. Speaker, I want to thank my good friend, JACK BROOKS, for yielding.

Mr. Speaker, I rise in strong support of H.R. 3626. I urge my colleagues to join me in voting for this important piece of legislation. This legislation ends years of bitter and divisive wrangling between industry, between committees in the Congress and between individuals.

The compromise is not the one which I would necessarily sponsor nor that which my dear friend from Texas, Mr. BROOKS, would have sponsored. I want to commend him for the fine way in which he worked with me, express my gratitude and appreciation to him and tell the House that this is an extraordinary example of the cooperation that can exist between industries, communities, and between committees and Members of this body.

The bill we bring to the House today memorializes the compromises, is a fair and balanced bill and deserves the support of the House.

But I would also like to commend the distinguished and able chairman of the Subcommittee on Telecommunications of the Committee on Energy and Commerce, Mr. MARKEY, for his extraordinary leadership in the joint handling of this and the other legislation that

will be before this body today. He has held 7 hearings, moved the bill out of the committee expeditiously, and saw to it that it passed our committee with an overwhelming vote. I commend him for his efforts.

Equal gratitude goes to my dear friends, the ranking minority member of the committee, Mr. MOORHEAD, Mr. FIELDS, and Mr. OXLEY, two of the more valuable members of this committee for whom I have great respect.

At this time I would like to again express my thanks to my dear friend, Mr. BROOKS, and engage in a brief colloquy with him.

I want to clarify with my coauthor of the legislation the intent behind those provisions in section 102 concerning the responsibility of the Department of Justice if it seeks to enjoin a Bell company from entering into the business of intra-state interexchange telecommunications services after a State has granted permission to such company under that section.

Does my dear friend the gentleman from Texas agree that the intent behind this provision is to require the Department to seek in its complaint when commencing a civil action not only a permanent injunction but also a temporary or preliminary injunctive relief if it desires to prevent a Bell company from offering the services authorized by the State?

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

Mr. DINGELL. I yield to my friend, the gentleman from Texas.

Mr. BROOKS. I thank the gentleman for yielding.

Mr. Speaker, yes, the intent behind those provisions is to require the Attorney General to seek all customary and available forms of injunctive relief as provided under the Antitrust laws and under the Federal Rules of Civil Procedure. Such relief would include temporary restraining orders, preliminary injunctions, as well as permanent injunctions.

Indeed, it is the usual and customary practice of the Department of Justice in antitrust cases seeking to enjoin anticompetitive activity to request preliminary as well as permanent injunctions. In implementing this provision, the Department will proceed in the same fashion under the applicable provisions of section 102 as it customarily does in other areas, such as merger enforcement, and will therefore request preliminary as well as permanent injunctions.

Mr. DINGELL. I thank the gentleman.

Thus, Mr. Speaker, as Chairman BROOKS and I have agreed, section 102 provides that a Bell operating company may provide intrastate interexchange telecommunications service that has been authorized by a State if the Attorney General fails to commence a civil action to enjoin the company

from so doing or brings such a civil action but fails to obtain an injunction. If the Attorney General fails to seek or obtain temporary or preliminary injunctive relief, the Bell operating company can proceed to offer the service pending a trial on the merits in which the court would decide whether or not to issue a permanent injunction.

Mr. Speaker, H.R. 3626 is one of the most important pieces of telecommunications legislation that I can recall coming to the House floor.

Together with its companion bill offered by our dear friends, Mr. MARKEY and Mr. FIELDS and Mr. OXLEY, it will provide a whole new and updated framework for the development and implementation of telecommunications policy. I urge my colleagues to support both of these important bills.

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

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

Mr. Speaker, I rise in support of H.R. 3626, the Antitrust and Communications Reform Act of 1994. This bill is critical because it returns important telecommunications policy authority from the courts to Congress where it belongs and it transfers the powers of overseeing the activities of the Bell operating companies from the Federal courts to the Federal Communications Commission and the Department of Justice.

Since 1984, when the Bell operating companies were restricted from entering various lines of businesses as a result of the consent decree entered into in an antitrust case, the industry has undergone significant changes. As a result of these changes, the restrictions imposed by the consent decree are no longer necessary and now serve as barriers to real competition.

H.R. 3626 sets out the policy standards, limitations, and procedures for the entry by Bell operating companies into previously restricted businesses, including manufacturing, alarm monitoring and long distance as well as the guidelines for providing information services.

These are complicated issues which were carefully considered by the energy and Commerce Committee and the committee reported the bill on a voice vote.

Mr. Speaker, we have all heard and spoken of the benefits the information superhighway will bring. H.R. 3626, together with H.R. 3636, will lay the foundation for the construction of this highway by removing unnecessary regulatory barriers and allowing for competition to flourish.

I am pleased to be a cosponsor of this legislation and urge my colleagues to support H.R. 3626.

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

Mr. BROOKS. Mr. Speaker, I yield myself such time as required in order

to have a couple of colloquies with the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL].

Mr. Speaker, I would like to engage the gentleman from Michigan in a brief colloquy on the savings clause inserted into the so-called domestic content provisions of the manufacturing section of the bill as found in section 201. As the gentleman knows, the savings clause was inserted to mitigate any concerns of the Office of the U.S. Trade Representative that these provisions might undermine the international obligations of the United States with respect to bilateral and multilateral agreements entered into with other countries.

Specifically, who will make the determination called for by the savings clause?

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

Mr. BROOKS. I yield to the distinguished chairman.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Speaker, in general, the President and the U.S. Trade Representative have responsibility for carrying out the trade laws and ensuring that our actions are consistent with our international obligations. This language envisions that any determination is subject to review by Federal court.

Mr. BROOKS. I thank the gentleman for this clarification. Mr. Speaker, I would like to engage the distinguished chairman of the Committee on Energy and Commerce in a colloquy regarding the exceptions for incidental services set forth in H.R. 3626.

The bill permits a Bell operating company or an affiliate thereof to provide interexchange telecommunications that are incidental to its offering of other services, such as cable television or cellular radio. The exceptions for incidental interexchange services are intended to be narrowly construed and are not a back door for the Bell operating companies or their affiliates to provide interexchange telecommunications services or their functional equivalents without going through the approval procedures specified in the bill.

Mr. DINGELL. Mr. Speaker, the gentleman from Texas is correct.

Mr. BROOKS. In this regard, the storage-and-retrieval exception would not cover any service that established a direct connection between end users, any real time voice and data transmission, or any service that is the functional equivalent of or substitute for an interexchange telecommunications service.

Only storage-and-retrieval services in which the customer initiates the storage or retrieval of information would be included under this exception. Thus, voice, data, or facsimile distribution services in which the Bell operat-

ing company or affiliate forwards customer-supplied information to customer- or carrier-selected recipients would not fall within the exception. Likewise, the exception would not include any service in which the Bell operating company or affiliate searches for and connects with the intended recipient of information, e.g. roving or automatic forward-and-connect services, or any service in which the Bell operating company or affiliate automatically forwards stored voicemail or other information to the intended recipient. For a storage-and-retrieval service to qualify under this exception, the recipient must act affirmatively to initiate the retrieval of the information from the storage facility.

Mr. DINGELL. The gentleman is correct. Storage-and-retrieval services that include the kinds of end-to-end capabilities you have described are, or could become, substitutable for interexchange telecommunications services. A Bell operating company or affiliate wishing to offer such storage-and-retrieval services could seek authorization to do so from the Department of Justice, the FCC, and the appropriate State, as the case may be.

□ 1300

Mr. BROOKS. Mr. Speaker, that is correct, and I want to thank the gentleman from Michigan [Mr. DINGELL] for this colloquy.

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

Mr. FISH. Mr. Speaker, I yield 4 minutes to the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. Mr. Speaker, it is hard to imagine a subject more consequential to the future of the American economy than that of regulation—or deregulation of telecommunications. The ability of companies in this field to compete and collaborate freely, with a minimum of Government second-guessing and direction, is vital to American leadership in high technology.

It is also hard to imagine, therefore, any subject less fit for the suspension calendar than this one. The law we pass here, if we do not fully explore its provisions and consider its potential costs, will be a law operating in subordination to that other and eternal law of this place—the law of unintended consequences. Have the Members so exhausted themselves with study and debate on the issues raised by H.R. 3626 and H.R. 3636 that they are already prepared to put their names down in support of it? I do not think so.

I know the sponsors worked hard on these bills. I know they mean well and feel they have done the best they can. But these bills were produced in their present written form only this past weekend; they are complicated and lengthy—almost 200 pages.

Of much greater concern, their sweeping economic provisions appear

to constitute what Bruce Chapman of Discovery Institute, in a Washington Post article yesterday, called a Rube Goldberg industrial policy—that is—sure to make the public as well as the business community unhappy before long.

How many Members could stand up here and discuss these many provisions, let alone debate them?

How many of us are prepared to be grilled about these bills by our constituents this fall if awkward questions are raised?

People involved in technology often are not people involved in politics—until, that is, they figure out what their elected officials have done to them. That is beginning to happen on these bills. For example, the Internet is busy with conjecture about the haste with which this weighty subject is being addressed by the House.

For example, on a telecom electronic roundtable called the Federal Information News Syndicate, Vigdor Schreiber, editor, reported the following yesterday:

A number of citizens have expressed outrage that such an important legislative initiative that will change the global civilization would go to a vote without adequate consideration of the language of the measures. * * *

I could have told Mr. Schreiber that I personally have heard similar reactions—amounting to incredulity—around this building, too.

One of the Nation's top experts on telecommunications policy, George Gilder, told several of us the other evening that he was appalled that so serious and sobering a set of measures might be adopted with so little understanding and discussion by this body. The results could be disastrous.

Privately, many of the lobbyists on various sides of these measures also acknowledge that this is very seriously flawed legislation with the potential to backfire upon its supporters, however well-intentioned. Remember the Cable Act of 1992, which among other unintended consequences is giving us higher rather than lower rates in many areas and knocking C-SPAN off of the sets of millions of Americans?

Remember catastrophic health insurance—a different sort of topic, except for the common feature of an inordinate rush to passage?

What shall we tell the mayors, county commissioners, and other local officials who are protesting these bills? The National League of Cities, the U.S. Conference of Mayors, and the National Association of Counties have all urged a “no” vote because they say that—

The bill, as drafted, virtually gives away local authority over local infrastructure, and does so without real or monetary compensation to local communities.

Maybe they are wrong, but how will we be able to explain our position to them if we have not even debated this bill?

Most importantly, what about the theme of reregulation that runs through these bills, even while they pretend to deregulate? In a dynamic field like high technology, which is doubling its costs effectiveness every year and is seeing the entry of scores of new and often unexpected competitors, why is this body about to endorse a return to railroad era monopoly control models? I would think that any friend of the market economy would be very cautious about heading down such a path.

Why instead do we not follow the more contemporary models of computers and software? In these models, it is the relative absence of Government controls and regulation that has allowed the United States to soar ahead of the whole world and has reinvigorated an otherwise somewhat anemic economy. Renewed monopoly is the wrong model for an economy where wireless communication, satellite, all optical fiber networks and other technologies are all coming on line to compete with the cable and telephone companies.

Do we really want to kid ourselves and our constituencies into believing that this body—with so little discussion before and no debate at all—is ready to second-guess not only the market but the technology itself and to design a whole new, heavily regulated, and indirectly taxed telecommunications regime for America?

I do not pretend to any expertise of the subject of high technology, but I do know something about the House of Representatives. And I think I know something about what the voters expect from us. They expect us to deliberate upon the great and weighty and historic issues of the time. At times like this they do not expect us to surrender our judgment.

Let us have these bills properly discussed and properly debated. They are too important to the future of our country and its economy to be dispatched without such care and attention.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY], the distinguished chairman of the subcommittee, with thanks for having handled this bill so well.

Mr. MARKEY. Mr. Speaker, I rise in support of H.R. 3626, the Antitrust and Communications Reform Act of 1994.

This bill, which was approved unanimously by both the Subcommittee on Telecommunications and Finance and the full Committee on Energy and Commerce, coupled with H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1994, represents the most comprehensive communications legislation brought to the House since the original Communications Act of 1934. This bill represents a carefully crafted com-

promise by the Energy and Commerce and the Judiciary Committees to balance the important regulatory and antitrust issues facing the telecommunications industry today. This compromise encompasses a myriad of different interests and perspectives both public and private—both in and out of Congress. Furthermore, this bill embodies countless hours of work on proper telecommunications reform by Congress over the last several years. The dawn of the Information Age has come and this bill will ensure that it is an age marked by fair competition and consumer protection.

It was Samuel Morse in 1844 who raised the curtain on the Information Age with a telegraphic message sent from Baltimore to Washington. Morse was an inventor, but he had the instinct of a talk show host. With a series of electric blips he asked Washington this question, “What hath God wrought?”

One hundred and fifty years later, we meet on the House floor to ask a less cosmic, but still compelling, question. “Whither the Information Age?”

God hath wrought the most innovative, competitive, remarkable industry in the world today, and we in Congress have the responsibility for accelerating this unrivaled capacity for reinvention and growth. The jobs of the future, the hopes of our children for expanding opportunities and a better life, ride on the passage of these bills today.

If we pass this bill, Congress will send its own message to the world, not in Morse Code, but in plain English over miles and miles of tiny strands of glass and digitally-compressed spectrum. We will send the message that America is placing its hopes and dreams in the ingenuity of its information entrepreneurs, and it is confident of its future.

H.R. 3626 lifts many of the restrictions placed on the Bell companies in the so-called modified final judgment [MFJ], a consent decree struck between AT&T and the Justice Department in 1982. The bill frees the Bell operating companies to compete in businesses from which they were previously barred under the consent decree, after winning State and Federal approval. For the past 12 years a single district court has carried the burden of shaping the development of communications law and the communications industry, simply by adjudicating the AT&T consent decree. This bill culminates a long effort over that time to set forth a comprehensive national policy on how telephone companies should participate in the future of the communications world. Now, rather than place the onus of deciding the evolution of the communications industry in the hands of the court, the Federal Communications Commission and the Department of Justice will serve as the guiding

legal and regulatory arms in determining the Bell companies' role in the Information Age.

Specifically, the Antitrust and Communications Reform Act of 1994 allows the Bell companies to enter the long distance and manufacturing businesses at certain junctures and sets new safeguards for their participation in the provision of information services.

In the long distance market the act would allow the seven regional Bell operating companies to enter various long distance markets over time as long as permission has been granted by the Justice Department and the Federal Communications Commission. In particular, the Bells would be permitted to enter four submarkets:

In the intrastate long distance market the bill grants authority to the State to regulate the provision of long distance service. Thus, a State would have the authority to decide whether a Bell company may enter the long distance business for the purpose of providing long distance service for calls that originate and terminate in the same State. The Department of Justice is granted 90 days to review any decision made by the State to grant service in this market.

In the interstate long distance market, H.R. 3626 permits the Bell companies to petition the Department of Justice and the Federal Communications Commission to utilize their own networks to provide interstate long distance service throughout their service region. The Department of Justice and the Federal Communications Commission would have to find that there is no substantial possibility that a Bell company could hinder competition by offering the service in order to block them from doing so.

Third, the bill allows the Bell companies to petition the Justice Department and the FCC to provide interstate resale services 18 months after the date of enactment. This provision permits a Bell company to purchase, in bulk, and resell to subscribers on a retail basis, capacity on networks owned by other carriers.

Finally, H.R. 3626 allows the Bell companies, 5 years after enactment of the bill, to petition the FCC and the Department of Justice to build and operate networks outside of their regions.

H.R. 3626 also sets important new guidelines for the regional Bell operating companies' participation in the provision of information services. Specifically, the act contains significant safeguards in the industries of electronic publishing, alarm monitoring, and burglar alarm services.

In providing electronic publishing services, a Bell company would only be permitted to engage in electronic publishing through a separate affiliate or joint venture. Such separate affiliates or joint ventures would maintain books, records, and accounts separate

from its affiliated Bell company. Bell companies must provide to any separate affiliate all facilities, services, or information available to unaffiliated entities on the same terms and conditions. All of these rules would expire in 6 years.

Most significantly, the legislation puts in place much-needed privacy protections for American consumers in this area by: First, prohibiting any common carrier from providing customer proprietary network information [CPNI] to any other person unless it is expressly permitted. And by second, developing a "privacy bill of rights" for all communications media to protect consumers whenever they use electronic networks. The three core principles of the privacy bill of rights, which the FCC will regulate with the flexibility to promulgate additional protections in a technology-specific manner as warranted, are as follows: First, consumers get knowledge that information is being collected about them; second consumers get notice that the recipient intends to reuse or sell that information; and third consumers have the right to say "NO" and curtail or prohibit such reuse or sale of personal information.

While the consent decree served a necessary purpose over the last 10 years, and the diligence of Judge Greene deserves note, it no longer serves the public interest at this dynamic time in the evolution of the communications industry. With expert agencies such as the Department of Justice and the Federal Communications Commission allowed to administer a new Federal policy, a policy which will promote competition and innovation while protecting consumers, America will ensure its pre-eminence in this quickly evolving telecommunications marketplace. The Antitrust and Communications Reform Act of 1994 will open up markets to help establish a competitive, fair, and ever-growing information infrastructure while providing necessary safeguards to protect competition and consumer interests. I urge all Members to join me in supporting this critical legislation.

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. FIELDS], the distinguished ranking member of the subcommittee.

Mr. FIELDS of Texas. Mr. Speaker, I rise in strong support of H.R. 3626, the Antitrust and Communications Reform Act of 1994. This legislation removes barriers to entry imposed on the Bell Telephone companies as part of the 1982 court decision to divest local telephone service from AT&T. While those prohibitions might have made sense 10 years ago, they increasingly have little relevance in the rapidly changing and evolving telecommunications landscape we see today.

H.R. 3626, which has been sponsored by the chairman and ranking members

of both committees that have jurisdiction over it, as well as the Telecommunications Subcommittee chairman and myself, sets out the ground rules for Bell company entry into long distance, information services, and telecommunications equipment manufacturing. The bill recognizes that the Bell companies enter these markets from a historic, if somewhat crumbling, position of monopoly in the local telephone market.

For that reason safeguards, both structural and nonstructural, are necessary to ensure that the threat of discrimination and cross-subsidies remain just that—a threat, not a reality.

Mr. Speaker, I want to commend the primary sponsors, the gentleman from Michigan [Mr. DINGELL], the gentleman from Texas [Mr. BROOKS], the gentleman from New York [Mr. FISH], and the gentleman from California [Mr. MOORHEAD] for their perseverance and hard work in ensuring that the delicate and the careful balance needed in this legislation has been struck and that after our conference with the Senate that every segment of the industry affected by this legislation will be in a more competitive, a more strengthened, position, and once again I want to commend the sponsors of this initiative for their hard work.

I urge all of my colleagues to support the passage of this legislation, and I say, particularly to my Republican colleagues, this is a deregulatory, procompetitive piece of legislation, a piece of legislation that should be supported by both sides of the aisle of this particular House.

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. EDWARDS], the ranking member of the Committee on the Judiciary.

Mr. EDWARDS of California. Mr. Speaker, I rise today in support of the compromise version of H.R. 3626, the Antitrust and Communications Reform Act. I commend my chairman, JACK BROOKS, and Chairman DINGELL for their work in drafting a bill that will foster continued growth in the U.S. telecommunications market.

I especially want to express my support for the provisions of H.R. 3626 which maintain the Justice Department's authority to review all potential entries by the regional bell companies into the long distance and manufacturing markets. Since we are allowing the regional phone companies, which operate currently as virtual monopolies in their service areas, into new markets, we must have in place safeguards against any abuse of such market power. The Justice Department's antitrust expertise will be put to good use in making certain that consumers will always have the benefit of true competition.

Again, I commend my fellow members of the Judiciary Committee as well as the members of the Energy and Commerce Committee for their work on this bill, and I urge my colleagues to vote for H.R. 3626.

Mr. Speaker, the gentleman from Michigan [Mr. BONIOR], referred to a 1993 WEFA study

funded by the regional Bell operating companies. This study purports to show dramatic job growth and other economic benefits if current antimonopoly rules restraining the RBOC's are lifted. Among the claims are 3.6 million new jobs nationally, an increase in the GDP of \$247 billion, a reduction in the Federal budget deficit of \$150 billion, a \$33 billion improvement in the U.S. balance of trade and a full 1 percent reduction in both the inflation rate and long-term interest rates over 10 years. This "economic miracle" includes an assumption of \$490 billion savings for American consumers in long distance alone. Forecasts like these are especially incredible given the fact that the long distance market which the RBOC's desire to enter produced only \$59 billion in annual revenue in 1992, the most recent year for which full data are available.

My concern is that these unbelievable forecasts were developed by using unbelievable assumptions, which have little or no basis in fact. For example, BellSouth forecasts a potential BellSouth price of \$.37 for a 5 minute long distance call from Kingsport, TN, to Washington, DC. Comparing this hypothetical price to a price of \$.99 for AT&T, they claim a dramatic 63 percent savings. Since the Bell companies currently charge AT&T approximately \$.45 for local access costs, it's hard to understand how BellSouth could assume a charge of only \$.37 for this call, less than their own charges.

A general assumption in the analysis is that long distance rates would be reduced by 50 percent immediately upon RBOC entry. The report fails to explain how this would be accomplished. The long distance market is already competitive, with studies showing a 66 percent decline in real rates since 1984. Further, with local access costs amounting to \$.45 of every long distance dollar, it is hard to imagine what miracles the RBOC's could perform to reduce the remaining \$.55 to \$.05. Only two possible explanations come to mind. The RBOC's could discriminate against long distance companies by failing to include long distance access costs in their own rates, or the RBOC long distance could be priced absurdly low with the lost revenue made up by higher local telephone rates.

The RBOC's also assume that average real telecommunications service prices will fall by 42 percent over the 10-year period. Again, no basis for this assumption is established. It is also in sharp contrast to actual RBOC increases in local telephone rates during the past 10 years.

Finally, the RBOC's portray this questionable report as a finding of WEFA [Wharton Econometric Forecasting Associates], a leading international forecasting firm. In fact, WEFA, under contract, simply provided the RBOC's with access to its econometric computer model of the U.S. economy. This computer model forecasts results based exclusively on whatever set of assumptions is supplied. In this case, assumptions were supplied by the RBOC's and their consultants. The results, of course, are equally questionable. WEFA performed no independent analysis of the RBOC's assumptions.

Mr. Speaker, a better analysis of the long distance industry was prepared by Stanford Prof. Robert E. Hall and his group, Applied

Economics Partners of Menlo Park in my California district. A summary of that study, Long Distance: Public Benefits From Increased Competition, follows:

EXECUTIVE SUMMARY

Important structural changes have taken place in the long-distance industry in the last two decades. The industry has moved from a tightly regulated monopoly to active competition among a number of rival firms. Key steps in the transition were:

The establishment of the legal right to compete with AT&T,

The structural separation of local and long distance accomplished by divestiture of the Bell System in 1984, and

The requirement of equal access by local telephone subscribers to alternative long-distance providers.

Economic analysis predicts that enhanced competition will drive prices down to a new, lower level. Lower prices are a primary way that the public benefits from pro-competitive policies. After the transition to lower prices, competition delivers continuing low prices. These predictions aptly describe actual events in long distance:

Between 1985 and 1988, according to government price indices, the price of long distance relative to the general price level fell by 30 percent.

Between 1988 and 1992, the price fell by about another 17 percent.

The average revenue per minute earned by the three largest carriers fell 63 percent relative to the general price level from 1985 to 1992.

Net of access charges paid to local telephone companies, the revenue per minute of the three largest long-distance carriers fell by 66 percent between 1985 and 1992 after adjustment for inflation.

Since 1989, AT&T's price for regular long-distance calls has fallen by three percent per year net of access charges, after adjustment for inflation.

The transition to competition has also seen a remarkable growth in the quality, variety, and technical capabilities of long-distance services:

Reductions of noise, cross-talk, echoes, and dropped calls have made the usefulness of one minute of telephone conversation rise at the same time that the price of that minute has fallen.

Fiber optics now carry the bulk of long-distance traffic, at lower cost and higher quality than the earlier microwave technology. The transmission speed of state-of-the-art fiber has doubled every three or four years since fiber was introduced.

Long-distance carriers have led the way in digital switching and common channel signaling.

The long-distance industry has developed software methods for providing efficient private network services for large businesses, using common physical facilities.

The industry has created innovative new types of long-distance service to improve the efficiency of communication for consumers and businesses, large and small.

Competition has worked in long distance because the nature of the product and the technology for producing it are suited to competition and because regulation has fostered conditions conducive to competition:

The success of equal access has shown that it is practical and effective to give every telephone user free choice among long-distance carriers.

No customer is a captive of a long-distance carrier. If one carrier provides poor service

or overprices its products, the customer can easily switch to another carrier.

There are no artificial barriers to entry in long distance. Although it would be expensive to reproduce an entire national network of the type operated by AT&T, MCI, and Sprint, that investment would pay off if there were much overpricing of service by those national carriers. Moreover, effective entry could occur without construction of any new networks, by leasing capacity from owners of subnational fiber networks and by reselling services from other carriers.

An important part of the evidence that competition has worked in the long-distance market is the lack of monopoly profits among the carriers. The return on assets by the three largest carriers recently has been below the rate of return allowed by regulators for local telephone service.

Proposals have been made to lift the line-of-business restriction and thus permit the Regional Bell Operating Companies [RBOCs] to control long distance carriers. That move would be harmful to long-distance customers because:

The principle of separate ownership of local and long-distance service is sound as a matter of economics; it is the most effective way to ensure reliable, efficient long-distance service and to give customers a free choice among long-distance carriers.

RBOC entry would not increase the number of long-distance carriers in the long run.

Experience has shown that regulators cannot prevent all the methods that a local carrier can use to reduce the efficiency of its rivals and to divert business to its own competitive service, when that service is dependent on the local telephone network. This danger is particularly important for long distance.

Regulation also cannot guarantee that costs for a competitive business, such as long distance, are not reported as costs of a related regulated monopoly business, such as local service.

Overall conclusions from this review of the structure and performance of the contemporary long-distance industry are:

The active competition made possible by divestiture in 1984 rapidly drove prices downward.

Price declines have continued because of rapid productivity growth and declining costs.

Prices have declined by much more than just the decrease in access charges.

Competition has proven a highly effective policy approach for the long-distance industry.

Permitting the RBOCs to control long-distance carriers would clearly be harmful. The line-of-business restriction on long distance is sound policy.

In addition, Mr. Speaker, I would note that, section 102(c)(3) provides for an exception to the general rule that the Bell operating companies may not provide interexchange telecommunications without DOJ and FCC approvals. This provision grants authority to provide incidental long distance for the purpose of providing commercial mobile services. Such an exception should not be viewed as a "blank check" to provide long distance telecommunications services without proper review and oversight. Rather, the bill is intended to authorize a subset of long distance telecommunications services that are incidental to the provision cellular radio or other wireless services. Nothing in this "incidental services" exception should be understood to limit the

authority under existing law of the Federal Communications Commission, the Department of Justice, or other appropriate body to regulate or condition Bell operating company provision of these services to protect the public interest or to prevent anticompetitive conduct. In particular, section 108(a) of the bill should be understood explicitly to authorize the Federal Communications Commission to adopt such appropriate conditions and safeguards. In this regard, I note that the Department of Justice has recently proposed some safeguards that should accompany Bell operating company provision of wireless long distance services in connection with a pending MFJ waiver request.

□ 1310

Mr. BROOKS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. WASHINGTON].

Mr. WASHINGTON. Mr. Speaker, I thank the chairman of the committee for yielding time to me.

I thank the gentleman and also the chairman of the Committee on Energy and Commerce, the gentleman from Michigan [Mr. DINGELL], for their hard work in putting this legislation together. I am pleased to give the legislation my strong support.

Mr. Speaker, I rise in support of the motion to suspend the rules and adopt H.R. 3626. This bill is the result of an enormous effort by Chairmen JACK BROOKS and JOHN DINGELL. As leaders of two great committees of this House, on which I am privileged to serve, the chairmen have shown extraordinary skill and wisdom in moving this measure to the House floor. I urge its adoption.

Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oklahoma [Mr. SYNAR], chairman of the subcommittee.

Mr. SYNAR. Mr. Speaker, I rise today in support of H.R. 3626, the Antitrust Communications Reform Act of 1994.

Since the Industrial Revolution, our country has benefited from the marriage of technology and the free market to achieve two key goals: First, ensuring the economic prosperity of our citizens; second, maximizing the quality of our citizens lives.

I maintain that telecommunications reform, if it is to truly serve the public interest, must rely on three classic regulatory concepts: First, an across-the-board competitive entry test; second, adequate post-entry competitive safeguards; and third, vigorous, well-financed enforcement of the competitive marketplace.

Let me state what we all know: competition works. The bill we ultimately adopt must give competition a proper chance to work for the benefit of all consumers.

One final important note. This bill will further propel growth in the telecommunications industry and that means both jobs and consumer benefits for our Nation. That is good news for

my constituents in Oklahoma and all Americans.

Mr. Speaker, I rise today in support of H.R. 3626, the Antitrust Communications Reform Act of 1994. Since the Industrial Revolution, our country has benefited from the marriage of technology and the free market to achieve two key goals: ensuring the economic prosperity of our citizens while maximizing the quality of their lives. Over the last decade, we have witnessed the growing power of the telecommunications industry in our economy, to the tune of nearly \$300 billion in revenue this year, and seen the innovative, and sometimes mind-bending application of this technology in our schools, libraries, hospitals, and homes.

This bill will further propel our Nation's telecommunications progress, and it is good news for my State of Oklahoma. We estimate this legislation will create 3.6 million new jobs for metal, factory, and construction workers. Oklahoma is well-positioned, both geographically and with its workforce, to lead the way as a high-technology, high-wage State in a dynamic global economy that now depends on information technology. I know that by the year 2000, these jobs will anchor communities in northeastern Oklahoma, transforming the job base and helping our young people to get a solid start on their future.

As Congress wrestles with the challenge of overhauling our telecommunications policy, we must not forget the policies and principles that made us a world leader in this industry. For more than 80 years, the antitrust laws have interacted with telecommunications regulatory policy to ensure product and service diversity and price competition to the benefit of consumers. The dual roles for antitrust law and communications law must be preserved and strengthened if we are to advance our Nation's telecommunications industry into the next century.

I have maintained that any reform legislation, if it is to truly serve the public interest over time, must rest on three classic regulatory concepts: an across-the-board entry test, adequate safeguards, and vigorous enforcement. Let me address each of these in the context of H.R. 3626. First, I am pleased that this legislation acknowledges that the Department of Justice has a critical role to play in ensuring that the playing field is level and that competitors compete fairly. By applying the competitive entry test across-the-board to all lines of business, we have codified a tough antitrust standard that must be met before new markets can be opened to players that could use their monopoly power to their competitive advantage.

However, I am concerned that the sequencing of the review process in this legislation is less than desirable if we are to guarantee that consumers benefit immediately competition in the local loop. Currently, the regional Bell operating companies' lock on the local exchange prohibits effective competition. We have seen instances when RBOC's delay competition by denying access to the switch, overcharging for the use of their facilities, and cross-subsidizing local service from monopoly revenues. This bill, while it applies the right standard to judge the potential impact of the regional Bell operating companies' entry into a market, uses that standard as a backstop instead of a

threshold test to forestall competitive harm. I look forward to working on this aspect of the bill as we move through conference toward final passage.

Second, I recognize that the bill contains post-entry safeguards to protect certain segments of the telecommunications industry from unfair and rapid encroachment by monopoly firms that could rapidly dominate the market. These safeguards, including extended waiting periods for certain lines of business, both separate subsidiary and separate affiliate requirements, restrictions on the use of Consumer Proprietary Network Information, certain joint activities, and teaming and business arrangements. However, as I expressed during hearings on this subject with representatives of the electronic publishing and alarm industry, safeguards that are deemed right and fair for specific segments of the industry should be applied to all. I believe Senator HOLLINGS' bill, currently under review in the Senate, addresses this issue in an equitable manner.

Third, I am heartened that this legislation actually includes a mechanism through which we can guarantee that its enforcement will be carried out over time. This is no small task. The FCC currently has only approximately 18 auditors to cover 256 audit areas. An amendment I successfully offered during committee consideration of H.R. 3626, allows the Federal Communications Commission to use its authority under the 1993 Omnibus Budget Reconciliation Act to collect fees for the express purpose of beefing up its auditing functions and cost allocation tracking efforts. We need to provide the Commission the right tools and resources to get the job done, and this amendment is the first step in this process.

I would also like to say a word about the term "affiliated enterprise," a term used in the MFJ to describe the full range of business relationships—including contractual relationships—that can create vested interests and thereby give rise to monopolistic temptations. I am pleased that the bill before us today follows the bill reported by the Judiciary Committee by incorporating this crucial term throughout the legislation's entry test provisions. Although the bill does not include a technical amendment passed unanimously by the full committee that would have alerted readers to the full meaning of the term in the statute itself, the Judiciary Committee report fully explains the term.

Just as this term is not explicitly defined in the bill before us today, it is not explicitly defined in the MFJ. Instead, the meaning of this term is explained in the case law—specifically, in *United States v. Western Electric Co.*, Civil Action No. 82-0192 (D.D.C. Jan. 21, 1992), *aff'd*, 12 F.3d 225 (D.C. Cir. 1993).

I am also pleased that the Attorney General's authority to enjoin entry into intrastate interexchange telecommunications services and the resale of interexchange telecommunications services as provided in section 102(b)(2), section 102(b)(3) and section 102(d)(1) contemplates the full range of injunctive authority. In order for H.R. 3626's entry test to properly protect telecommunications consumers, the Department of Justice must have available the full complement of injunctive remedies to ensure that there is no substantial possibility that those who seek to

enter the long distance telephone business could use their monopoly power to impede competition in the markets they seek to enter. Any other reading of the Attorney General's injunctive authority would be inconsistent with the plain language of the bill, the clear intent of the Congress, and the traditional law enforcement role of the Attorney General.

Lastly, I would like to express my disappointment about the nature of the debate we have had over the last 6 months on this legislation. While I commend the two chairmen and the ranking members for the depth and quality of the hearings held, I am disturbed by the lack of participation by Members from both sides of the aisle in the actual formulation of the legislation we have today. Congress can accede to its duty to make decisions only if we have an open, deliberative process that informs the final debate over the letter of the law.

Finally, let me state what we all know: competition works. The bill we ultimately adopt must give competition a proper chance to work for the benefit of all consumers. I look forward to participating further in these issues as we move toward final passage of the legislation.

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

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. BONIOR], our distinguished majority whip.

Mr. BONIOR. Mr. Speaker, I rise in strong support of H.R. 3626, the Antitrust and Communications Reform Act of 1994. I would like to commend the chairmen of the Judiciary and Energy and Commerce Committees, Mr. BROOKS and Mr. DINGELL, and also Mr. FISH and Mr. MOORHEAD, for delicately crafting the legislation before us today.

Nearly 1 year ago, I submitted to the House a study by the Wharton Economic Forecasting Associates Group predicting that 3.6 million new jobs would be created over the next 10 years if the manufacturing and long distance restrictions were lifted on the regional Bell companies.

Over that period, the study found that \$247 billion would be added to our gross domestic product. In addition, consumers would save more than \$30 billion from reduced local and long-distance telephone rates.

The study still makes sense today and H.R. 3626 makes complete sense now. Through this legislation, we can rebuild the framework to support America's communications needs well into the 21st century, stimulate the economy, create millions of high quality jobs, reassert our international competitiveness, and provide a strong future for our children.

Mr. Speaker, H.R. 3626 is an excellent bill whose time has come. I urge my colleagues to vote "yes" on its passage.

Mr. MOORHEAD. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Ohio [Mr. OXLEY], who has been very active on this legislation.

Mr. OXLEY. Mr. Speaker, I rise in strong support of the Antitrust and Communications Reform Act of 1994. I wish to commend Chairman DINGELL and our ranking Republican, Mr. MOORHEAD, for their indispensable leadership, and I want to thank our colleagues on the other committee of jurisdiction for their efforts as well.

As Members know, the Brooks-Dingell-Fish-Moorhead bill sets the terms for the Bell companies' entry into long-distance service, manufacturing, and information services. I have sponsored legislation to allow the Bells to enter manufacturing in years past, and I support allowing Bell provision of long-distance service today. What I want to stress to my fellow Republicans is that this is essentially deregulatory legislation, and as such can only serve to expedite the development of the information superhighway. The concept of a more competitive telecommunications marketplace is one that all Republicans can heartily endorse.

What I want to stress to the House and to the public at large is the bipartisan nature of support for this measure, as evidenced by the decision to place the bill on the suspension calendar. While there may be a few issues that I would have resolved differently—chief among these being the domestic manufacturing and content provisions—I am pleased to say that the majority has been quite open to Republican ideas overall.

One example of this was the acceptance in full committee of an amendment I offered regarding the imputation of access charges. Today, long-distance carriers pay access charges to local telephone companies or their competitors in order to reach customers. The Oxley-Barton amendment will require the regional Bell companies to pay a nondiscriminatory access charge when providing long-distance service.

Regarding domestic content, while I feel that these provisions are protectionist and I would have preferred that they be removed from the bill altogether, I do believe that they have been improved significantly following input from the U.S. Trade Representative, and I am hopeful that they will be further improved in the Senate and in conference.

Mr. Speaker, I include with my remarks a letter on this subject from the U.S. Trade Representative, Ambassador Kantor, as follows:

U.S. TRADE REPRESENTATIVE,
Washington, DC, June 13, 1994.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce.

Hon. JACK BROOKS,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR CHAIRMAN DINGELL AND CHAIRMAN BROOKS: I am pleased that, with the capable help of your staff, we were able to address the concerns that I expressed about H.R. 3626 in my letter to Chairman Dingell and Chair-

man Markey in February. I believe that the language agreed upon will resolve the difficulties presented by the domestic manufacturing and content provisions in the bill and enable us to carry on with our trade agenda.

As I have repeatedly stated, that agenda includes expanding job opportunities for U.S. workers by bringing down barriers to U.S. exports. In the telecommunications sector, United States worldwide exports increased by 24% in 1993, to a record total of \$9.7 billion. These exports are mainly high-end, sophisticated equipment in which United States companies and workers are world leaders. We are making this progress because of the competitiveness of U.S. companies and workers, as well as through bilateral and multilateral agreements and by enforcing our existing agreements.

In this context, the acknowledgment of our international obligations now included in H.R. 3626 is important for our continued progress in opening foreign markets.

Please thank your staff for their hard work in resolving this issue.

Sincerely,

MICHAEL KANTOR.

In any case, Mr. Speaker, I do not feel that the domestic content conflict should be a barrier to passage of this landmark legislation, the most important rewrite of telecommunications law in 60 years. I urge all Members to support the bill.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair wishes to inform the Members that the gentleman from Texas [Mr. BROOKS] has 2½ minutes remaining, the gentleman from New York [Mr. FISH] has 2 minutes remaining, the gentleman from Michigan [Mr. DINGELL] has 3 minutes remaining, and the gentleman from California [Mr. MOORHEAD] has 4 minutes remaining.

Mr. MOORHEAD. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Speaker, I rise in support of the substitutes to both H.R. 3626 and H.R. 3636. The 1934 Communications Act has served us well, but it is clearly time to make some changes. Technology has advanced dramatically over the past 60 years. Our predecessors in the 73d Congress could not have imagined the present state of telecommunications—pocket phones, wireless fax machines, electronic mail. Both substitutes to H.R. 3626 and H.R. 3636 address the future telecommunication needs of our Nation. Passage of these bills will help us build the information highway of the 21st century.

I commend the authors of this legislation for writing law which delicately balances the various interests and concerns of the telecommunications industry. Nevertheless, I must express concern with provisions in H.R. 3626 requiring regional Bell operating companies [RBOC's] to conduct all of their manufacturing in the United States and use at least 60 percent domestically produced components in their manufacturing.

For legislation which is generally forward looking, such domestic manufacturing and content restrictions are uncharacteristically protectionist. Concerns that the restrictions violates the terms of the North American Free-Trade Agreement [NAFTA] and the General Agreement on Tariffs and Trade [GATT] have been only slightly allayed by a waiver in cases where it's determined to be inconsistent with any multilateral or bilateral agreement to which the United States is a party. But the bill does not specify who or what government entity is responsible for determining whether or not this situation exists.

If this provision becomes law, it is likely to be challenged in court, a process which could drag on for years. Our international competitors would use the opportunity to establish similar standards, thus closing the door to U.S. exports of telecommunications equipment. The real effect of this provision is to isolate U.S. telecommunications manufacturers, a dull-knife approach to international competition. I would hope that we can resolve this issue if not in the other body, then certainly in conference.

The substitute to H.R. 3626 also takes a necessary first step toward addressing serious concerns about RBOC marketing practices for enhanced services, such as telemessaging. In addition to requiring the nondiscriminatory offering of telecommunications services and facilities associated with a carrier's telemessaging operations, these provisions would also prohibit cross-subsidization between telephone exchange service and telemessaging. It is my understanding that this cross-subsidization restriction would serve to prohibit the exchange of funds as well as valuable information between affiliated telephone and telemessaging operations. While I believe these provisions are a good start, stronger safeguards are needed to ensure a level playing field in the telemessaging market.

Telemessaging bureaus provide telephone answering services to the American public which ensure that important and even critical information is relayed to medical personnel and other customers 24 hours a day. This industry has been providing the public with, and has helped to develop, the latest telecommunications technology for over 50 years. There are approximately 3,000 telemessaging service bureaus operating nationwide serving some 1 million customers. The majority of these small businesses are female-owned and employ less than 20 people.

Stronger provisions that provide specific safeguards on the RBOCs' ability to joint market telemessaging and other services, to use customer proprietary network information, and to cross-subsidize among services will help ensure long-term competition in the telemessaging market. Such provi-

sions are essential to permit independent providers of enhanced services to continue to pursue a livelihood and to allow small businesses to play a viable role in the creation of the Nation's information super highway. I appreciate the willingness of Chairman DINGELL to work with ranking Member MOORHEAD and me on this issue. But it is my hope that as this legislation moves toward enactment there will be an opportunity for such stronger measures to be added.

I wish to thank Mike Regan, of the minority staff, and David Leach of the Chairman's staff, for their help in reaching a level of agreement on the telemessaging amendment to H.R. 3626. I support H.R. 3626 and urge my colleagues to support it as well.

As an original cosponsor of H.R. 3636, I strongly support its passage. I would simply add my thoughts regarding an amendment which was adopted during the full Energy and Commerce Committee markup. My amendment, which I offered at the request of the gentleman from California [Mr. HUNTER] addressed the problem of signal leakage associated with pay-per-view cable programming, specifically adult pay-per-view programming. Earlier this year, we were made aware of cases where cable subscribers who had not purchased adult pay-per-view programming were still receiving partially scrambled video signals and full audio signals over the designated channel setting. Mr. HUNTER and I wish to ensure that both the audio and video signals for obscene or indecent programming are effectively and entirely blocked. H.R. 3636 provides for such safeguards by requiring the FCC to issue new rules on this matter. Furthermore, the bill reinforces the 1984 Cable Act provision regarding blocking devices which parents can use to control viewing of cable service by requiring cable companies to regularly inform subscribers of their right to request and obtain this equipment.

Adult programming is in many cases a profitable line of business for cable operators. It is, however, also programming which is offensive to many cable subscribers. The amendment that I have drafted and which has been included in this legislation allows cable operators to provide adult programming to those cable subscribers who desire it, but protects those cable subscribers who do not wish to receive adult programming from receiving any type of audio or video signal.

I would like to thank Chairman MARKEY and his staff and ranking Member FIELDS and his staff for their assistance on the signal leakage language. In particular, I would like to thank Cathy Reid, of the minority staff, for her invaluable help in reaching a final solution to this issue.

In conclusion, though I have expressed concerns regarding domestic

content and telemessaging services in H.R. 3626, I urge its passage. I am pleased with the changes that have been made in H.R. 3636 with respect to the issue of signal leakage, particularly of adult programming or pornography on cable television. I urge passage of H.R. 3636.

Mr. DINGELL. Mr. Speaker, I yield 2 minutes to my distinguished friend, the gentleman from Louisiana [Mr. TAUZIN], who has been extremely helpful in getting this legislation to the point where it is today.

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

Mr. Speaker, let me remind our friends that the chairman of our subcommittee, the gentleman from Massachusetts [Mr. MARKEY], quoted Mr. Morse, who at the beginning of the telecommunications age in America, asked: "What hath God wrought?"

For the last 10 years the question has been: What have the Federal courts and Judge Green wrote? Because telecommunications policy has not been in the hands of the people of the United States through this legislative body; it has been in the hands of the Federal courts.

This enormous effort today, remarkably coming up under suspension, by broad bipartisan agreement, with the remarkable work of many of our committees, particularly the Committee on the Judiciary and the Committee on Energy and Commerce, for which the two chairmen deserve enormous credit, is remarkable by the fact that we have come together and for the first time in so many years decided to return telecommunications policy back to the House where the people govern, and we are doing it in a way that opens up competition, not just across lines drawn on a map artificially by judges years ago. We are opening it up also in the local loop so that cross competition will benefit no one else in America no more importantly than the consumer.

The consumer is the big winner today. The process by which we govern here is a big winner today. The American people are the big winner today when telecommunications policy is returned to this body and when for the first time we open up the great possibilities for the information super highway.

Mr. FISH. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. BLILEY].

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

Today we are considering important legislation. For too long the entire debate surrounding the information highway has gone on without congressional action. With Congress on the sidelines, we have watched the courts and the regulatory bodies make national policy in piecemeal fashion. Due in great part to the diligence of Chairmen DINGELL

and BROOKS and the efforts of Messrs FIELDS, MARKEY, MOORHEAD, and FISH, Congress will no longer be on the sidelines. And that is the way it should be—this legislation is not just some esoteric exercise, the bill before us will help create jobs, determine the competitiveness of our economy, and to some extent is vital to our national security.

During full committee consideration I offered an amendment that addressed a serious deficiency in the bill that would have allowed regional Bell companies to use their monopoly status in the local loop to disadvantage their competitors. Unfortunately, this amendment was defeated but I am pleased that the negotiators noted my concerns. The competition-based test of the MFJ for Bell company entry into all aspects of long distance and manufacturing incorporated into this bill is a giant step in the right direction. This test requires that an RBOC show no substantial possibility of using monopoly power to impede competition prior to entry. The certainty of this requirement has led to the emergence of over 500 long distance providers and thousands of small manufacturers in the United States, companies which are highly competitive and which, through their aggressive attempts to sell products and services, have generated enormous benefits for the American consumer.

While these changes dramatically improve the bill I do not think that this bill is perfect. I think work needs to be done to close what may be a loophole that gives instate long distance calling to the RBOC's while they still have their monopoly. Also, in my view, the incidental services exception is overly broad and could permit an RBOC to construct nationwide interexchange landline and radio-based telecommunications networks without obtaining prior authorization. It is my hope that I will have the cooperation of Chairman DINGELL to continue to address these issues as the legislation moves through the process.

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Mr. BROOKS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Speaker, I rise in support of and to discuss the particularly important Department of Justice role in this compromise bill we are considering—H.R. 3626.

This legislation provides that a Bell operating company may offer intrastate interexchange services and interexchange services through resale if, among other restrictions, the Attorney General either "fails to commence a civil action * * * to enjoin" the Bell company from offering such services, or if, having brought such an action, the Attorney General (I) "fails to obtain an injunction from the district

court" or (II) obtains an injunction but the injunction is "vacated on appeal".

The obvious point of these parallel provisions is to ensure that if the Attorney General determines that a Bell company proposal to offer intrastate or resale interexchange services violates the strict antitrust standard prescribed by the bill, the Bell company cannot offer such services until and unless the Attorney General's injunction action is dismissed after a full evaluation of all pertinent evidence at trial or after the injunction is vacated on appeal.

In other words, the bill requires that no Bell company can override the Attorney General's determination of illegality until the Attorney General has had her day in court, on a motion for a permanent injunction—after a full and thorough hearing in accordance with standard antitrust procedure, not a rush to judgment.

Because courts may—and frequently do—enter permanent injunctions in cases where they have earlier denied motions for a preliminary injunction, it makes no sense to interpret the word "injunction" in this bill as referring to a preliminary injunction.

Moreover, it is difficult to conceive of circumstances under this particular legislation in which the Attorney General will find it useful or necessary to seek preliminary or temporary relief pending the outcome of a trial. A Bell company's attempt to offer intrastate or resale interexchange services will be lawful only if (among other things) the Attorney General has failed to file for an injunction.

Once the Attorney General has filed a lawsuit seeking such an injunction, this essential precondition will be absent, and so offering the prohibited service will be unlawful, until and unless the suit fails—after trial or on appeal. The Attorney General will not need to seek temporary pretrial relief from the court, because the statute itself makes such relief unnecessary.

Unlike a stay, the restriction imposed by this legislation is an absolute bar that would render any contrary conduct by the Bell company unlawful—until all of the mandatory conditions spelled out for lawful entry into the specified service areas are met. There is no authority under the bill for a district court or court of appeals to relax, pending a final decision on the merits, the prohibition against the Bell company's offering of the service or services determined to be unlawfully anticompetitive by the Attorney General.

Finally, there is nothing in these provisions that could be a basis for, and we have no intention of, divesting courts hearing cases brought under this measure of their traditional equitable powers. For example, if after trial, the Attorney General's request for a permanent injunction is denied, district courts, appeals courts, and

even the Supreme Court, retain full authority to stay the order denying the injunction if they conclude that such a stay is warranted under the circumstances.

Mr. Speaker, I rise to discuss the particularly important Department of Justice role in this extremely well-balanced bill we are considering—H.R. 3626. I also ask unanimous consent to revise and extend my remarks.

Subsections 102(b)(2) and (3) of this legislation provide that a Bell operating company may offer intrastate interexchange services and interexchange services through resale if, among other restrictions, the Attorney General either [Subsection (i) of §102(b)(2)(C) and also of §102(3)(D)] "fails to commence a civil action * * * to enjoin" the Bell company from offering such services, or [Subsection (ii) of the above two provisions] if, having brought such an action, the Attorney General (I) "fails to obtain an injunction from the district court" or (II) obtains an injunction but the injunction is "vacated on appeal".

The obvious point of these parallel provisions is to ensure that if the Attorney General determines that a Bell company proposal to offer intrastate or resale interexchange services violates the strict antitrust standard prescribed by the bill [Section 101(b)(3)(D)], the Bell Co. cannot offer such services until and unless the Attorney General's injunction action is dismissed after a full evaluation of all pertinent evidence at trial or after the injunction is vacated on appeal.

In other words, the bill requires that no Bell company can override the Attorney General's determination of illegality until the Attorney General has had her—or his—day in court, on a motion for a permanent injunction—after a full and thorough hearing in accordance with standard antitrust procedure, not a rush to judgment.

It is perfectly clear in the context of the overall provision that the injunction referred to in subsection (ii)(I) is precisely the same permanent injunction which is the objective of the suit the Attorney General is authorized to undertake in subsection (i)—not a mere temporary or preliminary order or injunction that she or he, or another party or court—might find appropriate as an interim measure.

Because courts may—and frequently do—enter permanent injunctions in cases where they have earlier denied motions for a preliminary injunction, it makes no sense to interpret the word "injunction" in subsection (ii)(I) as referring to a preliminary injunction.

Moreover, it is difficult to conceive of circumstances under this particular legislation in which the Attorney General will find it useful or necessary to seek preliminary or temporary relief pending the outcome of a trial. Under Sections 102(b)(2) and (3), a Bell companies' attempt to offer intrastate or resale interexchange services will be lawful only if (among other things) the Attorney General has failed to file for an injunction.

Once the Attorney General has filed a lawsuit seeking such an injunction, this essential precondition will be absent, and so offering the prohibited service will be unlawful, until and unless the suite fails after trial or on appeal. The Attorney General will not need to seek

temporary pretrial relief from the court, because the statute itself makes such relief unnecessary.

Unlike a stay, the restriction imposed by sections 102(b) and (3) is an absolute bar that would render any contrary conduct by the Bell company unlawful—until all of the mandatory conditions spelled out by sections 101 and 102 for lawful entry into the specified service areas are met. There is no authority under the bill for a district court or court of appeals to relax, pending a final decision on the merits, the prohibition against the Bell companies' offering of the service or services determined to be unlawfully anticompetitive by the Attorney General.

Finally, I note one additional point. There is nothing in these provisions that could be a basis for, and we have no intention of, divesting courts hearing cases brought under section 102 of their traditional equitable powers. For example, if after trial the Attorney General's request for a permanent injunction is denied, district courts, the court of appeals, and for that matter the Supreme Court, retain full authority to stay the order denying the injunction if they conclude that such a stay is warranted under the circumstances.

I would call to your attention the attached letter to Energy and Commerce Chairman DINGELL from the National Association of Attorneys General urging us to pass this legislation incorporating "basic antitrust principles to ensure existing competition is preserved and that no player is permitted to use market power to tilt the playing field to the detriment of competition and consumers."

NATIONAL ASSOCIATION OF
ATTORNEYS GENERAL,
Washington, DC, June 6, 1994.

Hon. JOHN DINGELL,
Chairman, Energy and Commerce Committee,
U.S. House of Representatives, Washington, DC.
RE: Telecommunications Legislation.

DEAR CHAIRMAN DINGELL: The undersigned Attorneys General are writing to urge you to adopt a telecommunications reform package that incorporates basic antitrust principles to ensure that existing competition is preserved and that no player is permitted to use market power to tilt the playing field to the detriment of competition and consumers. By protecting competition, the antitrust laws promote efficiency, innovation, low prices, better management, and greater consumer choice. Additionally, we urge you to recognize the strong role of the States in ensuring that their citizens have universal and affordable access to the telecommunications network, which is so important in this information society. When antitrust principles and the state role are jointly recognized in legislation, all of our citizens can look forward to an advanced, efficient and innovative information network.

Telecommunications reform is a vital national and state interest. Last year, the National Association of Attorneys General Antitrust Committee established a Telecommunications Working Group to analyze and develop policy positions, where appropriate, on significant issues involving competition in the telecommunications industry.

The rapid evolution of telecommunications technology has given rise to complex issues relating to competition policy requiring sophisticated analysis. In general, however a competitive telecommunications market at all levels—e.g., long-distance service, local

exchange service, equipment manufacturing—would best serve the interests of our citizens. It is important to clarify that this consumer interest is promoted only by "effective" competition, i.e., that there be a sufficient amount of competition to ensure that prices are driven to competitive levels. Although we hope that this type of competition will emerge eventually in every part of the information superhighway, the reality today is that local exchange markets are not yet competitive nor are they likely to be in the near term.

The emerging competition in telecommunications markets must be evaluated against the backdrop of the Modification of Final Judgment ["MFJ"], the court-approved agreement that ended the United States Department of Justice's antitrust case against American Telephone & Telegraph Company ["AT&T"]. The MFJ, which went into effect in 1982, allowed AT&T to compete in new markets while mandating that it divest its local telephone service business. The MFJ created the seven regional Bell operating companies ["RBOCs"] and placed certain limits on their activities in the telecommunications arena. Among other things, the RBOCs are prohibited from providing long-distance and equipment manufacturing services. At the same time, however, the MFJ provides a process for RBOCs to obtain waivers to the lines-of-business restrictions contained in the decree. Under the MFJ, waivers can be granted by the decree-supervising federal district court when such factors as new technology and emerging market forces demonstrate "no substantial possibility" of anticompetitive conduct by the applying RBOC in the market it seeks to enter.

While the information services "lines-of-business" restriction has been lifted under this waiver process during the last seven years, considerable debate and attention continues to focus on whether the other lines-of-business restrictions should be lifted. Some argue that the remaining lines-of-business restrictions should not be removed because they fear that the RBOCs will use their regulated, monopoly power in the local telephone service markets to obtain an unfair advantage in the more competitive long-distance market. One of the major concerns in this regard is that the RBOC local monopolies may "cross-subsidize," that is, extract unwarranted profits by overpricing long-distance services. Similarly, the RBOCs could also discriminate against their utility customers who are also their competitors by setting unfair prices and terms for, and designing technical incompatibility into, their utility services. Others argue, on the other hand, the RBOC entry into the long-distance market would facilitate more effective competition in the long-distance market, because that market is currently composed predominantly of only three facilities-based carriers.

Because of these conflicting competitive concerns, we believe that the existing competitive safeguards contained in the MFJ should be incorporated in H.R. 3626. Under the MFJ, the RBOCs are permitted to enter presently prohibited markets only after showing that their monopoly control of local exchange services will not permit them an unfair competitive advantage in the market into which they seek to enter. As William F. Baxter, President Reagan's Assistant Attorney General and Stanford Law Professor, recently stated:

"The monopoly on local service held today by the Regional Bell Operating Companies,

or RBOCs, is every bit as tight as the monopoly held by AT&T before the Bell breakup. Legislating away the antitrust protections of the Modified Final Judgment (which I negotiated on behalf of the Reagan administration) while the RBOCs hold this monopoly would be a setback to competition in long distance and, indeed, in a large number of other "information services" dependent upon access to the local switch. Restoration of the two-level monopoly would jeopardize the introduction of advance information services just when they are needed most.

"As I see it, Congress has but one course that will avoid such abuses [e.g., cross-subsidization, discrimination] and expedite the benefits of advanced information technology. It should pass legislation that incorporates the competitive safeguards of the Modified Final Judgment. . . . We should not fall into the trap of thinking that just because local competition is imaginable, it's already here. It's not."

In addition, the states' role in developing and implementing telecommunications policy should be continued. Among the strongest of state telecommunications policies is that of encouraging universal service. The States must retain the ability to ensure that all of its citizens, urban and rural, rich and poor, continue to have access to reasonably priced telephone services.

In considering H.R. 3626 and H.R. 3636 we urge you to address a number of key issues to ensure that consumers benefit in the long term from the creation of this information superhighway.

Because competition in the local exchange will not be introduced in every portion of the country simultaneously, the legislation should empower both state and federal regulators to deregulate their telephone utilities where justified by the amount of competition in a particular local market. We note that the current Communications Act of 1934 provides for shared regulatory authority. Because of the central role of the states in local service regulation, therefore, any preemption of state authority should be approached very cautiously.

Any legislation must preserve and promote universal telephone service at fair, reasonable and affordable rates and also provide a clear, broad definition of universal service.

Consistent with the MFJ, any legislation must not permit RBOC entry into other markets (e.g., long distance) unless the RBOCs can demonstrate that the RBOCs dominant position in relevant local markets would not permit it to monopolize those markets or to leverage its market power to the detriment of competition in the markets to be opened. State regulators should be empowered to investigate allegations of RBOC cross-subsidy by RBOC competitors.

Cross ownership of telephone companies and cable companies operating within the same service area should be generally prohibited, and exceptions, if allowed, should be drafted narrowly to prevent the telephone companies from extending their monopoly.

No new antitrust exemptions should be created in the telecommunications industry.

There should be adequate consumer representation on the proposed Federal-State Joint Board or any similar board. In addition, a consumer advocate office should be created in the Federal Communications Commission.

Number portability should be mandated as soon as technically feasible.

In conclusion, while supporting your efforts to make a competitive information superhighway a reality, we urge you to abide

by the basic competitive concepts which underlie our antitrust laws and which have been instrumental in this country's economic success. These competitive principles, as embodied in the breakup of AT&T ten years ago, have been instrumental in fostering innovation and efficiency, and reducing prices in the United States telecommunications field. Further, the state's role in telecommunications regulation and policy should be maintained in order to ensure that all citizens retain effective and affordable access to telecommunications products and services. Any telecommunications legislation should incorporate these antitrust and state regulation principles.

Thank you for considering our views.

Very truly yours,

Jimmy Evans, Attorney General of Alabama;
Grant Woods, Attorney General of Arizona;
Winston Bryant, Attorney General of Arkansas;
Charles M. Oberly, III, Attorney General of Delaware;
Vanessa Ruiz, D.C. Corporation Counsel;
Robert A. Butterworth, Attorney General of Florida;
Robert A. Marks, Attorney General of Hawaii;
Ronald W. Burris, Attorney General of Illinois;
Robert T. Stephan, Attorney General of Kansas;
Chris Gorman, Attorney General of Kentucky;
Richard P. Ieyoub, Attorney General of Louisiana;
Michael E. Carpenter, Attorney General of Maine;
J. Joseph Curran, Jr., Attorney General of Maryland;
Scott Harshbarger, Attorney General of Massachusetts;
Frank J. Kelley, Attorney General of Michigan;
Hubert H. Humphrey, III, Attorney General of Minnesota;
Jeremiah W. Nixon, Attorney General of Missouri;
Joseph P. Mazurek, Attorney General of Montana;
Tom Udall, Attorney General of New Mexico;
Frankie Sue Del Papa, Attorney General of Nevada;
G. Oliver Koppell, Attorney General of New York;
Michael F. Easley, Attorney General of North Carolina;
Lee Fisher, Attorney General of Ohio;
Susan Loving, Attorney General of Oklahoma;
Theodore R. Kulongoski, Attorney General of Oregon;
Ernest D. Preate, Jr., Attorney General of Pennsylvania;
Jeffrey B. Pine, Attorney General of Rhode Island;
Dan Morales, Attorney General of Texas;
Jan Graham, Attorney General of Utah;
Rosalie Simmonds Ballentine, Attorney General of the Virgin Islands;
James S. Gilmore III, Attorney General of Virginia;
James E. Doyle, Attorney General of Wisconsin; and,
Christine O. Gregoire, Attorney General of Washington.

Also, Mr. Chairman, I would like to comment on the separate subsidiary provisions for electronic publishing.

The separate subsidiary requirement for electronic publishing is extremely significant. It will go a long way to ensuring that the regional Bell operating companies do not exploit their monopolies to unfairly disadvantage competitors in the electronic publishing field. That requirement sunsets in June of 2000. The committee believed that that date—June 2000—would be a reasonable estimate of when competition in the local loop would be sufficient so that a separate subsidiary requirement wouldn't be necessary. If for any reason local competition does not sufficiently exist at that stage, and a threat to competition from the monopoly power of the local exchange continues to exist, the FCC is free to—and should—promulgate regulations to continue the separate subsidiary requirement as appropriate.

Mr. MOORHEAD. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, this legislation represents a truly historic moment for the 103d Congress. H.R. 3626, the Antitrust and Communications Reform Act of 1994, is a sweeping rewrite of 60 years of telecommunications policy in the United States that will responsibly lead the telecommunications industry into the 21st century.

Of particular significance, this legislation has been crafted in such a way—with the acquiescence and support of all major industries—both friends and foes—to be placed on the suspension calendar. Indeed, who would have believed, even as recently as 3 months ago when everyone seemed to be poles apart, that AT&T, MCI, Sprint, and the seven Bell companies would stand united in support of the provisions regarding Bell entry into long distance that are provided for today in H.R. 3626?

And, who would have believed that the Bell companies and the newspaper publishers, as well as the burglar alarm industry, would come together as they have under this bill to enact good public policy?

Indeed, this is truly historic. But, beyond that, today we have achieved in the House the vision that I have strived for throughout my tenure in elected office—first in the Illinois General Assembly and now as a member of the Telecommunications Subcommittee—competition among all entrants in the marketplace—fair and open competition without the burdensome regulatory restraints now in existence. When there is real competition, the people win.

Mr. Speaker, H.R. 3626 represents responsible and progressive telecommunications policy. I rise in strong support of H.R. 3626 and urge my colleagues to pass it overwhelmingly.

Mr. MOORHEAD. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. RAVENEL].

Mr. RAVENEL. Mr. Speaker, American consumers today want more competition and more choice in cable TV and video services, and they want that choice in competition now. Legislation

was passed in 1992, and the Federal Communications Commission, the FCC, has tried to regulate the cable business since then. But many think the rates are still too high and the choices too skimpy.

Under these bills, cable companies can come in and rent video transmission facilities from the phone companies, but phone companies do not have reciprocal rights, namely to rent channels from the cable companies. It is unclear so far whether competing video services can be started up right now, or whether there should be some lengthy delay while all the various safeguards are put into place. It seems to me like these two bills address these problems, and I am certainly happy today to take a minute to endorse both the bill we are on and the subsequent one that will be up in just a minute.

Mr. DINGELL. Mr. Speaker, I yield such time as he may consume to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I rise in strong support of this historically important legislation.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Washington [Mr. KREIDLER].

Mr. KREIDLER. Mr. Speaker, we have before us the most comprehensive communications legislation considered by this body since the Communications Act of 1934. Obviously, much has changed in the world of communications since then.

Thanks to Chairman DINGELL, Chairman MARKEY, Chairman BROOKS, and ranking minority member Mr. FIELDS, the Congress is now finally able to catch up with those changes.

The framework we are developing today will bring enormous benefits tomorrow and in the future, including: new high-skilled jobs for U.S. workers, exciting new services for the American public; globally competitive telecommunications technologies; and much needed competition in the telecommunications marketplace.

I am particularly pleased by the compromise achieved in H.R. 3626 regarding entry by the RBOC's into the long distance market. The revised bill does a better job of putting appropriate lines of authority and standards in place to enhance regulatory oversight and protect consumers.

I would also like to thank Chairman MARKEY for accepting my amendment in committee to make sure that higher education institutions will have a voice when the FCC sets rules for public access to the information highway.

In closing, Mr. Speaker, let me just say that America's future as a leader in telecommunications technologies and services depends on these bills. I urge my colleagues to support H.R. 3626 and H.R. 3636.

Mr. DINGELL. Mr. Speaker, I yield 1 minute to my distinguished friend, the

gentleman from Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Speaker, there was a silly column in the Washington Post yesterday which criticized this bill for being rushed through the Congress. Mr. Speaker, my hair has turned gray while we have been rushing this bill through the Congress.

The 1934 Communications Act was really an extraordinary piece of legislation that has served this country well for a very long time. But technology and new realities of competition have stretched it farther than it can go. And this legislation today I think will be seen in years ahead as historic as the 1934 act, as it adds to that act and gives it the flexibility and the elasticity it needs to serve this country in the new realities.

I cannot think of two committees who could have done a better job, because tied up in this legislation are legitimate concerns about antitrust, and about anticompetitive behavior, and about predatory behavior, and so forth. The Committee on the Judiciary has stood tall on those. The Committee on Energy and Commerce has looked at the telecommunications policy that is so important to the economic future of our country, and together they have turned out a remarkable piece of legislation.

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Mr. BROOKS. Mr. Speaker, to conclude the debate, I yield the balance of my time to the gentleman from Virginia [Mr. BOUCHER], a leader in formulating this resolution.

Mr. BOUCHER. Mr. Speaker, the Antitrust Reform Act will bring much-needed competition to the markets for long distance and for telecommunications equipment. As we remove the barriers to competition of the local telephone exchange, it is only fair that we also free the seven Bell operating companies to compete in the market for long distance and the manufacture of equipment. But more than fairness to these companies underlies this reform. The public deserves the benefits that new competition will bring to the long distance and equipment markets.

As we forecast lower prices and new services arising from new competition, we also have confidence that anticompetitive conduct will not occur, as Bell companies offer their own long-distance service while continuing to connect other long-distance providers to their local exchange customers.

That confidence arises from the carefully constructed provisions of the legislation that require that before Bell companies offer long distance, they satisfy the U.S. Department of Justice that there is no substantial possibility of anticompetitive harm from their entry into the market.

For service within a given State, they must gain the approval of the

State's public service commission before offering long distance statewide. And the U.S. Department of Justice is accorded an opportunity to review the State decision to ensure that other long-distance providers receive fair access to the Bell companies' customers.

These protections, Mr. Speaker, strike exactly the right balance. They offer to the public the benefits of increased competition in both the long-distance market and the manufacture of equipment, a lucrative market in long distance which today is dominated by three large carriers.

At the same time they contain stringent safeguards to ensure that Bell companies not use their local networks in such a manner as to restrict access to their subscribers for other long-distance companies.

Some would argue that the U.S. Department of Justice is not up to the job of protecting consumers in this circumstance. They would prevent the public from getting the benefit of added competition in long distance until the local exchange is fully competitive, a circumstance which will not arise in many parts of the Nation until well into the next century. The Justice Department is up to the job. We can have the early benefits of added long-distance competition while assuring that anticompetitive harm will not occur.

Mr. Speaker, I commend the gentleman from Texas [Mr. BROOKS] and the gentleman from Michigan [Mr. DINGELL] for their thoughtful work and for the balance their measure contains. I am pleased to support their reform and urge its passage.

Mr. BROOKS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Arkansas [Ms. LAMBERT].

Ms. LAMBERT. Mr. Speaker, I rise in support of H.R. 3626. Mr. Speaker, I am extremely pleased to join the supporters of this legislation and its companion bill (H.R. 3636) to advance the information superhighway. I congratulate Mr. DINGELL, Mr. BROOKS, Mr. MARKEY, and Mr. FIELDS for their vision in realizing the vast technological opportunities that lie ahead.

These bills are especially important for rural areas like the First District of Arkansas. Rural consumers will benefit from highly progressive technology while being protected from unreasonably high rates. Together, we have ensured that folks in Possum Grape, AR, will have access to the same telecommunications advances that are made in New York City.

I would like to thank Chairman MARKEY for working with me to draft amendments to ensure that small- and medium-sized phone companies will receive equal footing when competing against the big guys. These smaller companies could have been vulnerable to "cherry picking" by large telephone

carriers that have the resources and revenues which dwarf those of independent phone companies. "Cherry picking" would have threatened the viability of independent phone companies by taking away their largest customers like universities and major corporations, leaving high cost small business and residential customers that rely upon subsidies provided by larger customers to ensure universal access.

In addition, I would like to thank Mr. MARKEY for working with me to ensure that phone rates charged in rural areas match rates charged in urban areas. We have helped maintain our current system under which long-distance providers average the costs associated with providing service to both rural and urban areas and charge all residents that same rate. For example, the rate charged from Washington, DC, to rural Arkansas is about the same as the rate from Washington, DC, to Minneapolis or West Palm Beach. Together, we have made sure that as new competitors enter the long-distance markets they will not be able to de-average their rates. We have protected customers who live in less populated areas.

One additional component of these bills that will help rural areas is a National Newspaper Association-sponsored ARC provision. This section of H.R. 3626 will assure that community newspapers, including the 36 weeklies and 11 dailies in the First Congressional District, have a place on the information highway. It assures them fair access, fair rates, and fair competition.

Mr. Speaker, in hometowns like mine, people still look forward to sending their dogs out to pick up the weekly paper with pictures of Little League teams and church socials. Whatever form that news may take in the future—whether it is digital bits or bytes—it is essential that we make sure our community newspapers will have a place in the 21st century.

With sincere respect for the bipartisan effort and years of negotiation that have gone into these two bills, I am proud to stand in support of them today.

Mr. KING. Mr. Speaker, I rise today in support of H.R. 3626, legislation that would help pave the road to the information superhighway for all Americans, including people with disabilities.

Mr. Speaker, people with disabilities have a particularly strong interest in seeing the rapid and healthy development of an information superhighway, since many of the benefits will directly improve their lives.

H.R. 3626 will allow all players to fully compete in the telecommunications marketplace, which will make services available to all Americans to enrich their lives. This legislation contains provisions of particular importance to people with disabilities because it will enhance their participation in professional, social and entertainment activities, and increase their job opportunities.

Mr. Speaker, people with disabilities have been underserved in the areas of telecommunications equipment and services. This legislation will ensure that they are no longer left out in the cold. The bill requires the Federal Communications Commission to prescribe regulations that will ensure telecommunications equipment manufactured by a Bell company and network services provided by Bell companies are accessible and usable by people with disabilities. This will be a vast improvement for this segment of the population.

H.R. 3626 supports people with disabilities so I urge my colleagues to support this bill. Vote "yes" on H.R. 3626.

Mr. RICHARDSON. Mr. Speaker, today, I rise to support H.R. 3626, even though I have lingering concerns about the consequences that this legislation will have on competition in the telecommunications industry and on the rates that consumers pay for phone service. H.R. 3626 signals a fundamental shift in the way that the bulk of the telecommunications industry is regulated. H.R. 3626 frees the regional Bell companies to offer services prohibited under the terms of the 1982 modified final judgment consent decree. I am hopeful that a flexible and competitive telecommunications policy will result from our work on H.R. 3626.

I was pleased the committee incorporated language to hold electronic publishers, that enter into a joint venture with a Bell company, to the same EEO standards as other telecommunications entities. This is a case of industry parity and it is essential that we harmonize our policies, so that there is no mistaking congressional intent in ensuring equal opportunity for all Americans.

On domestic content, I am pleased that the committee has moved to resolve an issue which concerned me, the administration, and our trading partners. I believe that we are on the right track on domestic content and I look forward to seeing the final version of this when it emerges from conference.

I am pleased that the committee has begun to seriously address the problems regarding consumers and competition. I am concerned that consumers will end up paying the price of deregulation. I believe that the bill before us today goes a long way toward protecting consumers and ensuring a healthy competitive atmosphere. However, I remain concerned over the power that the regional Bell companies now wield in local markets and the effect deregulation will have on other market entrants and ultimately consumers. I look forward to working with the committee to thoroughly resolve these critical issues.

Mr. Speaker, this bill reverses years of Government regulation of an industry that should now be freed to compete. We may wrangle over the details but it is critical that we pass this legislation resoundingly. I urge my colleagues to vote in favor of H.R. 3626.

Mr. DELAY. Mr. Speaker, I rise today to address the social and economic benefits of H.R. 3626, the Antitrust and Communications Reform Act. This legislation will lift restrictions on telecommunications services that can be offered across artificial boundaries and expedite investment in our telecommunications infrastructure while encouraging lower rates. The result is that Americans will pay less for more.

Increased competition through deregulation accomplishes several important things. It spurs

the creation of new technology, making the United States more competitive internationally. It also allows the marketplace to work freely, resulting in lower prices. Therefore, perhaps the best news about H.R. 3626 is that not only will it result in more choices for consumers, but it will do so at affordable prices. Competition will keep phone rates low and quality high, which will provide consumers a greater opportunity to realize the benefits of the information age.

H.R. 3626's promotion of greater competition and technological advances will aid in the development of the information superhighway. Examples of such advances include an enhancement of medical services and procedures through telecommunications applications, as well as greater access to education and training materials, regardless of the location of the user. Telecommuting could reduce air pollution and traffic congestion.

With H.R. 3626, these benefits will become more accessible to anyone with a telephone, bringing them fully into the information age marketplace. Without this bill, only a privileged few will enjoy the benefits of the rapidly changing telecommunications arena.

I urge my colleagues to pass H.R. 3626 so that all consumers, not a select few, will be able to afford the new services available through enhanced technology.

Mr. BLILEY. Mr. Speaker, I understand that there were suggestions earlier that the long-distance carriers supported entry by the Bell companies into long-distance under the conditions specified in H.R. 3626. That is not my understanding. They did support moving the bill through the House. The long-distance companies have been quite clear and consistent, however, in saying that they support a "no substantial possibility" of anticompetitive effects test across the board in long-distance, one that specifically incorporates an effective competition test in the local telephone market.

There remain loopholes in the bill that weaken the entry test in the area of intrastate and resale, and potentially overboard authority to offer incidental long-distance services. As I said earlier, it is my hope that we can have Chairman DINGELL's cooperation in addressing these problems as the bill moves through the process. Attached for the RECORD is a study by former Secretary of Labor Ray Marshall that outlines the potential problems.

BUILDING THE INFORMATION SUPERHIGHWAY:
GETTING THE COMPETITION RIGHT—SUMMARY

(By Ray Marshall)

INTRODUCTION

The National Information Infrastructure (NII), or the "information highway," is at the heart of America's future; it will provide the path to improved education, health care, productivity, economic growth, and participation in community and public affairs. Indeed, it is hard to imagine an undertaking with greater significance for the quality of our lives. The Clinton administration stresses the need for public-private cooperation in constructing the NII. Legislative proposals before Congress are driven by the goal of establishing competition in communications markets. Private investors governed by competitive market forces will be primarily responsible for completing the construction of this infrastructure, but the government would provide the framework for universal access, remove antiquated regulatory bar-

riers to competitive markets, establish policies to achieve and maintain competitive market conditions, and provide incentives for private investment and innovation.

While there is good reason to rely heavily on competitive markets, the proposals to allow the Regional Bell Operating Companies (RBOCs) to enter competitive industries before local telecommunications markets are fully competitive would harm competition, reduce the growth of output, employment, and technological innovation; potentially cripple the NII; and raise prices to consumers. The sequence of authorizing competitive entry into local market, subjecting that entry to a market test to determine whether effective competition can develop, and then allowing RBOCs into long distance when effective local competition has in fact developed, is the key to consumer benefits, economic growth, and technological innovation.

This paper explores these propositions in greater depth, discusses the conditions needed to ensure the proper evolution to competitive markets, and suggests some of the tests needed to determine whether or not competition has been achieved.

THE IMPORTANCE OF THE NII

There is little doubt about the importance of the NII. Information technology has become an infrastructure at least as important to national and personal welfare in the "Information Age" as highways and railroads were in the past. It would, moreover, be hard to think of an activity with greater economic importance. As Peter Drucker observed recently, "few things stimulate economic growth as the rapid development of information, whether telecommunication, computer data, computer networks or entertainment media." The development of leading-edge technology is the key to economic success and national well-being in more competitive knowledge-intensive national and global economies. Technological progress, in turn, involves using information to improve quality, productivity and flexibility—the essential determinants of economic success under competitive conditions. Information, in addition, improves individual, business and public decision making, as well as the delivery of public and private services. Telecommunications is a technology driver, as well as the heart of the national information infrastructure, and probably has larger multiplier effects for the whole economy than any other industry. Information networks consequently have become major determinants of economic performance, as well as of personal and national welfare.

REGULATORY BACKGROUND

As noted, however, the health of the telecommunications industry depends heavily on establishing effective competition. Because they had increasing returns to scale and therefore declining costs, telecommunications companies were assumed to be "natural monopolies" throughout most of this century. This changed in the early 1980s, when long distance, manufacturing, and information services were separated from the local telephone monopolies as part of the Modification of Final Judgment (MFJ). That consent decree broke up the Bell System, based on the realization that structural separation was the only effective way to prevent abuse of power by the telephone monopolies.

Before the MFJ, economists and policy makers attempted, without much success, to prevent the abuse of monopoly power and approximate competitive outcomes for consumers through regulations. Regulating

"natural" monopolies was always problematic at best, but became increasingly more difficult in dynamic telecommunications markets where technological change intensified the complexity and competitiveness of markets, improved the information and choices available to people, widened the geographic scope of markets, and accelerated the pace of change.

A particularly serious problem for regulators was that these changes created a greater potential for competition in some markets than others. After the MFJ, for example, the RBOCs retained "natural" monopoly power for most local exchange services because it still was inefficient for several companies to duplicate ubiquitous telephone lines and facilities in the same local area. Regulators therefore subjected the RBOCs to rate-of-return regulation. This meant, however, that these companies had both the incentive and the ability to increase their profits by using their monopoly control of local facilities to gain economic advantages in more competitive markets (e.g., long distance, information services, and equipment manufacturing). For example, the RBOCs could cross-subsidize, or charge prices lower than actual costs in competitive markets and make up for these losses by inflating the costs they passed on to rate payers in regulated markets. These practices place more efficient competitors at a disadvantage, raise competitors' costs, or even make it impossible for them to survive. As one regulatory expert put it, what happened in connection with the processes that led to the MFJ "was the result of a poisonous synergy created by . . . regulation and monopoly power combined with the provision of competitive services. The outcome was discrimination and cross-subsidization extremely damaging to the competitive process and ultimately to consumers. And, because these same conditions exist today, notwithstanding divestiture, similar anti-competitive activities will happen again if we let them."¹

Because of the strong incentives for monopolies to abuse their power, and the subtle, invisible nature of business decisions, regulators and courts concluded that the only solution to this problem was the structural separation of monopolies, which would continue to be regulated, from businesses that had greater potential for competition. This was precisely the reasoning behind the MFJ.

The problem for the courts and regulators, of course, was not only to physically separate the RBOCs, whose control of local telephone facilities gave them monopoly power, from long distance, information services, and manufacturing, but also to monitor the transition in order to prevent these companies from using their residual monopoly power to stifle the transition to competition.

OBSTACLES TO THE DEVELOPMENT OF THE INFORMATION HIGHWAY

Despite the attention created by futuristic descriptions of the "superhighway" and interactive information technologies, the future is not as clear or certain as some of these descriptions imply. The natural history of technology suggests a tendency to exaggerate short-term effects and to underestimate the long-term impacts. Since the outcomes of the use of technology are determined by public and private policies and ac-

tions, they are not predetermined, and progress is more likely to be measured in decades than years. There are many bottlenecks in these systems which must be overcome. In addition, there are many important technical obstacles to the construction of this infrastructure, which will require the development of interconnected, easily accessible networks to move unprecedented amounts of information. We should note, however, that the challenges in constructing the information infrastructure are probably more political, financial and organizational than technical.

IMPORTANCE OF PROPER SEQUENCES IN THE TRANSITION TO COMPETITION

There is little doubt that the consequences of the MFJ confirmed the validity of competitive theory. There is overwhelming analytical and factual evidence that competition in long distance markets has been a remarkable success. In many states, obsolete regulations have vanished, competition has exploded as hundreds of new firms have entered the market, inflation-adjusted long distance rates have dropped by more than half, technological and product innovations have accelerated, productivity has improved, employment has expanded, and American companies have strengthened their competitive position in global markets.

There also is general agreement that constructing the NII requires the transformation of local and regional telecommunications markets, where competition could do for these markets what it did for long distance. Today, while all customers have at least three choices for long distance service (and most have many more), nobody has more than one choice for basic local telephone service. Clearly, moreover, while technological and market changes have created the potential for competition in these local markets, this potential is largely prospective and these markets remain over 99 percent closed to outside competition.

The MFJ experience demonstrates, however, that the transition to competition must be carefully managed in order to deny the RBOCs the incentive and ability to use their monopoly power to impair competition in long distance, manufacturing, or other markets. Removing the MFJ restraints on the RBOCs in the proper sequence is absolutely essential to this transformation. It can be demonstrated that lifting these restraints prematurely would create the same problems that led to the MFJ in the first place. On the other hand, the sequence which insists first on authorizing competitive entry along with proper standards and monitoring, followed by a market test to ensure that the ensuing competition is effective before allowing the RBOCs into long distance, could bring the benefits of competition to local and regional telecommunications markets. We would, with this sequence, realize results in higher employment, output, innovation, and economic efficiency. We should note, moreover, that both the negative and positive changes would have economy-wide multiplier effects.

This policy prescription has been confirmed by econometric evidence which shows that the proper sequence—ensuring completion in local networks before removing the constraints—would cause output to grow by \$37 billion and employment by 478,000 over ten years. By contrast, prematurely lifting the MFJ restraints on the RBOCs would reduce productivity by making it possible for less efficient RBOC monopolies to use their monopoly power to displace more efficient competitive firms, thereby increasing prices

for consumers and restricting output by \$24.4 billion and employment by 322,000 over ten years.

Studies that purport to show that removing the MFJ restraints immediately would raise output and employment are based on the unrealistic assumption that monopolists would increase efficiency by entering long distance markets that these analysts assume are not already highly competitive. This is contrary to all credible evidence and logic. Other than their monopoly control over access to end users, it is hard to see what advantage the RBOCs would have in competitive markets. It is, therefore, much more realistic, as well as more compatible with economic principles, to assume that premature elimination of the MFJ restraints would produce inefficiencies in local, regional, and long distance markets. Ignoring the necessity for proper sequencing has short and long term negative economic implications.

In advocating premature relief for the RBOCs, some analysts argue that the long distance market is not competitive because AT&T still accounts for 60 percent of the market and only has two major competitors MCI and Sprint, which account for an additional 27 percent. However, this argument confuses market share with market power. It is possible that firms with large and declining market shares might have very little market power. The keys are whether there are barriers to entry and whether customers have and exercise a choice to change carriers. By these standards there is little doubt that long distance markets are competitive today. Sixteen million subscribers, an average of 44,000 people a day, switched carriers during 1992.

Unfortunately, some of the proposals before the Congress, while recognizing most of what is required to achieve competitive conditions, would unwisely permit immediate entry by the RBOCs into state and regional long distance markets without any accompanying provision for first allowing competition to develop in bottleneck local markets that today are virtually closed. As noted, opening competitive markets to the RBOCs now would not bring competition to local and regional telecommunications markets. The wrong sequencing of events would allow monopolies to restrict competition instead of enhancing it, thus diminishing productivity, jobs, and national output. Among existing proposals, only the Hollings bill pays enough attention to the proper sequence for lifting the MFJ restrictions. And one of the leading proposals—the Brooks-Dingell bill—while making constructive contributions to the extension and preservation of competition, has some perverse sequences because the RBOCs would be allowed to enter long distance markets before establishing and testing competition and would be allowed into markets where they have the greatest market power, without adequate safeguards. It is hoped that proper sequencing will be included before the various bills to establish telecommunications policy become law.

IMPORTANCE OF MARKET TESTS FOR COMPETITION

Proper sequencing, including markets tests for competition, is required for two major reasons: (1) the local and regional telecommunications monopolies have both the incentive and the ability to block the transformation to competitive markets and (2) it is difficult, if not practically impossible, for regulators to prevent abuses by hybrid entities operating simultaneously in monopolistic and competitive markets. The kind of abuses that could restrict competition include raising rivals' costs by delaying access

¹Testimony of Philip L. Verveer before the Subcommittee on Economic and Commercial Law, Committee on the Judiciary, U.S. House of Representatives, January 26, 1994, p. 6.

to monopolized lines, requiring costly forms of interconnections, discriminatory pricing, and degrading technology; requiring the purchase of unneeded services; and arrangements (like the lack of portability of telephone numbers, and the prevention of the sharing and resale of long distance services within the calling area) that make it difficult for competitors to enter and compete in monopolistic markets. A careful examination of deregulation proposals from the RBOCs suggests that these companies have come to accept such practices as the only way to do business.

A test to determine if a market is competitive would prevent the continuation of these anti-competitive practices and therefore would facilitate the transition to competitive markets. And with regulatory constraints on the monopolistic local exchange carriers, private investments needed to maintain an efficient, open, flexible, responsive and innovative information infrastructure would be encouraged. The minimum essential preconditions of a market test for competition include: removing restrictive state laws; making it possible for consumers to have effective options for long distance and local telephone service; implementing number portability; unbundling network services in order to allow consumers to select only those components they need, as well as to permit providers to compete for these services; establishing real cost-based pricing arrangements, including the imputation of all charges to the local monopoly telephone exchanges that are already being paid by competitive carriers; preventing restrictions on resale and sharing; establishing uniform technical and interconnect standards; providing equal access to conduits and rights of way; permitting separate interconnections for each unbundled network service; granting alternative providers co-carrier status; and explicitly identifying and fairly implementing a system to allocate universal service costs.

Conditions like these are necessary to ensure the transition to adequate competition, but additional tests must be applied to determine when markets have become adequately competitive. In general, adequate competition exists when consumers have numerous choices, when no firm has enough market power to effectively raise prices without eliciting supply or price responses from actual and potential rivals, and when there are no artificial barriers to entry. However, precise measures would clarify and give greater precision to this definition, creating clear goals for RBOCs and regulators, as well as clear signals for potential investors. Examples of the kinds of measures that might be used to determine when local markets are adequately competitive for the purpose of removing the line-of-business restrictions are the following, proposed by AT&T in response to Senators John Danforth and Daniel Inouye:

1. All legal, regulatory and technical barriers must have been eliminated.

2. Seventy-five percent of the customers served by RBOCs can get telephone service from two or more alternative additional providers.

3. At least 30 percent of customers obtain exchange access service exclusively from an alternate provider.

While there is room for debate on the precise measures used to determine when local markets have become competitive, there is little doubt about the desirability of having such measures.

CONCLUSION

Proper sequencing—authorizing competitive entry, followed by a market test to de-

termine whether effective local competition has developed—would require a willingness to change and compromise by all parties concerned, but the transformation to competition would have enormous benefits for the RBOCs, long distance companies, business and residential consumers, regulators, and, most important, the American public. With these safeguards the NII would establish an advanced, unified information infrastructure, unified by competitive market forces rather than "natural monopoly." This competitive information infrastructure within the framework of fair, transparent, simplified and flexible rules to prevent abuses and encourage innovations and efficiency would have enormous economic, social and political benefits. It is hard to think of anything more important for our nation's future.

Ms. MOLINARI. Mr. Speaker, today's question facing the House is: How can we improve our economic, social, and international footing, without spending taxpayers money, and without hurting any particular industry? I believe the answer is H.R. 3626.

H.R. 3626 is a bill that makes sense, common sense and dollar cents. The common sense in H.R. 3626 points to advances in technology that will improve education, health care, transportation, business, and the environment. The dollar cents reveals 3.6 million new jobs with private industries, not taxpayers, taking the cost while also fostering a competitive edge in markets abroad.

For once, in a long time, industries can agree that H.R. 3626 has benefits for everyone. The multimedia market will have the ability to expand to its fullest potential. This cannot happen until multiple users across the country can interact with each other. Information providers need and welcome the partnerships, new capital, technology, and mass market capabilities that would result from competition. In fact, one hundred of the "Fortune 500" companies have endorsed the bill because they recognize that lower telecommunication costs will increase their own competitiveness.

I support the simple answer that America has been waiting for, H.R. 3626.

Mr. FRANKS of Connecticut. Mr. Speaker, I rise today in support for H.R. 3636 and H.R. 3626, legislation reported out of the Energy and Commerce Committee, on which I serve, and which will lead our Nation's telecommunications industry into the 21st century.

These bills will promote competition and bring new goods and services to consumers by removing the court-imposed restrictions on the Bell operating companies, by opening up the local telephone system to competition and by permitting our telephone companies to offer cable television services.

H.R. 3636 and H.R. 3626 will help our country's economy and will greatly assist in creating jobs for Americans. A study by the independent econometric forecasting firm, the WEFA Group, demonstrated that full competition in the telecommunications industry, including Bell Company relief from restrictions that currently bar them from certain markets and including full competition at the local level, would create 3.6 million new jobs in the United States over the next 10 years in a wide variety of industries and in every State in the Union. In my home State of Connecticut, over 45,000 new jobs over the next 10 years would be created in a fully competitive marketplace.

These measures have a wide range of support from a variety of organizations including senior citizens groups, education associations, labor unions, minority interests, and small business coalitions. These bills reflect years of work by the House Telecommunications Subcommittee and contain compromises to ensure that all competitors are treated fairly and equally.

I urge my colleagues to support both H.R. 3636 and H.R. 3626.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 3626, the Antitrust and Communications Reform Act of 1994. I would like to commend my colleagues, Chairman BROOKS, Chairman DINGELL, and Chairman MARKEY for the excellent work they have done to facilitate this measure being brought to the floor today for a vote.

As our country faces the challenges of maintaining its place as a predominant player in the development of the information superhighway, it is imperative that we establish a fair and competitive environment in which American companies may thrive. The passage of H.R. 3626 is a fundamental step which we must take in order to establish such an environment.

H.R. 3626 sets forth a clear process for lifting the current restrictions placed on the Bell operating companies so they may play a greater role in creating and competing in our developing information-rich society. Notwithstanding the increased entry into new areas of the telecommunications industry provided for in H.R. 3626, it is important to note that this measure ensures that the safeguards established in our current antitrust law remain strong. This careful balance of increased access to the telecommunications market coupled with strong safeguards against anti-competitive behavior will facilitate a fair and open competitive market and, in turn, foster growth in the job market as well as in the telecommunications market as a whole.

One of the most significant aspects of H.R. 3626 is the administrative structure which it establishes. This structure, which replaces the 1982 modified final judgment [MFJ] consent decree agreement between the Department of Justice and AT&T, establishes an appropriate framework under which the seven regional Bell operating companies and their affiliates will be permitted to provide services which they are currently barred from providing pursuant to the MFJ.

Essentially, this structure sets forth a well-balanced process by which the appropriate Federal agencies and State regulatory bodies may review a Bell company's request to enter into other lines of business. Specifically, the measure establishes a specific time frame within which a Bell company may provide long-distance services, information services, and manufacture telecommunications equipment.

Pursuant to H.R. 3626, both the Department of Justice [DOJ] and the Federal Communications Commission [FCC] will be involved in the review process for determining how and when the Bell companies may enter new areas of the telecommunication industry. The DOJ and the FCC will also carefully review when the Bell companies are authorized to enter into the intrastate long distance market.

Another important provision in this measure is the recognition of those consumers who are disabled. That is, this measure establishes requirements that new equipment and services must be fully accessible and usable by those persons who may have special needs. Moreover, the bill incorporates consumer privacy protections which will prohibit Bell operating companies from using unsolicited information about their own telephone subscribers to market potential customers for other services provided by the company or its affiliates.

Moreover, I am very pleased that this measure specifically addresses the concerns of both the alarm monitoring and electronic publishing markets. H.R. 3626 provides that the regional Bell companies and their operating affiliates may file—beginning 5½ years after enactment of this measure—applications to the Federal Government to enter into the alarm monitoring market.

Likewise, this measure allows the Bell companies to enter into the electronic publishing business, while adhering to important safeguards protecting against the development of any unfair competitive advantage in providing these services. That is, Bell companies would be permitted to provide electronic publishing services over its own telephone lines only if such services are provided through a separate affiliate or a joint venture with an electronic publisher.

I urge my colleagues to support H.R. 3626. It is a comprehensive, well-balanced bill which will encourage the growth of fair competition in the telecommunications marketplace, while ensuring that America maintains her rightful position as a leader in the rapidly developing information superhighway.

Mr. KYL. Mr. Speaker, I rise in support of H.R. 3626, the Antitrust Reform Act, and the next bill on the agenda, H.R. 3636, the National Communications Competition and Information Infrastructure Act.

I am voting for these bills today to keep them moving through the legislative process. However, while both represent steps in the right direction—toward greater competition in the telecommunications industry—I believe both are still fraught with far too much Government regulation and oversight.

Our goal here should not be to carve out new turf for Government bureaucrats, or to carve up pieces of the telecommunications market for various competing interests. The communications policy we adopt should be focused on competition—consumer choice—and not on allocating markets or furthering Government intrusion, via regulation, into the communications industry.

While everyone should have an opportunity to compete, no one is entitled to prevail in the marketplace. The Federal Government's responsibility is only to ensure that the conduct of competitors, once they have entered new lines of business, does not impede competition and is not in violation of antitrust laws. The goal is fair competition, recognizing that the essence of competition is that some will succeed—others will fail—based on how well—or how poorly—they serve their customers.

A very simple way to measure the effectiveness of any communications policy is to determine how long it will take before this proposal

achieves the stated goal of communications competition. If the answer is 5 years, 7 years, 10 years or more, then we ought to try again. The marketplace ought to be opened up as promptly as possible so that the American people can benefit from the wealth of new technologies that are becoming available, as well as improvements in price and quality of services that competition is sure to provide. And those benefits will be substantial.

According to a recent Wharton Economic Forecasting Associates [WEFA] Group study, consumers stand to save as much as \$63 billion a year. As many as 3.6 million new jobs will be created in the United States in the next decade.

As I see it, the communications policy debate is about consumer choice and opportunity. If we permit long distance companies, local telephone companies, cable companies and others to compete on a level playing field, we'll give consumers that choice and business the opportunity to grow and prosper and create new jobs.

I urge yes votes on these bills today to keep them moving to the Senate and conference. I am hopeful, however, that before the legislation is put to a final vote, the Senate and the conference committee will work to minimize Government regulation of the industry.

Mr. SLATTERY. Mr. Speaker, I rise today in strong support of H.R. 3626 and H.R. 3636. These landmark bills are essential in aiding our Nation as we travel down the information superhighway. I congratulate Chairman DINGELL and Chairman BROOKS, along with Subcommittee Chairman MARKEY and their staffs, for their diligence in bringing this legislation to the floor.

H.R. 3626 would allow the regional Bell Telephone Companies gradually to enter the long-distance business. The companies could also enter into telecommunications equipment manufacturing, based on legislation I authored, and could provide information services. This legislation includes important provisions requiring future Bell manufacturing affiliates to operate in the United States and to make every possible effort to buy component parts from U.S. companies.

I am pleased that H.R. 3626 also includes an amendment I offered to help thousands of community newspapers across the country have a better chance to get on board the information superhighway.

The National Newspaper Association, the oldest and largest newspaper trade association in the United States, believes this could be the most important legislation to affect community newspapers throughout the Nation. By guaranteeing them fair access, fair rates, and fair competition, this legislation gives them nothing less than a license to the future. Without it, they could be ignored or actually driven off the information superhighway.

These newspapers often provide the social, political, and economic ties that bind communities together. Many are going through tough times. They face competition and disappearing ad revenue everywhere they look. Now at least they can face the electronic future with confidence that if this bill becomes law, they're bound to get a fair shake. The law requires no less.

I also want to call attention to the provisions of this legislation which address access by the

disabled. In the past, most technological innovations in the area of information and telecommunication services have been developed without considering the needs of individuals with disabilities.

In keeping with the spirit of the Americans With Disabilities Act mandate to bring about the complete integration of individuals with disabilities into the mainstream of our society, H.R. 3636 and H.R. 3626 would ensure that advances in network services deployed by local exchange carriers, and advances in telecommunications equipment and customer premises equipment developed by Bell manufacturing affiliates, will be accessible and usable by individuals with disabilities, unless the costs of providing such access would result in an undue burden or an adverse competitive impact.

H.R. 3636 directs the Federal Communications Commission to undertake inquiries regarding the provision of both closed captioning and video description services of video services, and further directs the Commission to establish regulations to require an appropriate schedule of deadlines for the provision of closed captioning.

We have finally set the stage for full access—access which is long overdue—to video programming for these populations.

Additionally, I worked with my colleagues on the House Energy and Commerce Committee to include provisions which will help to provide a fair and equitable marketplace for small cable operators.

For example, the legislation would promote competition by removing State and local barriers for new telecommunications services. It would also allow joint ventures, mergers, and acquisitions to occur in areas with population of 10,000 or less, or when the cable system or systems in the aggregate serve less than 10 percent of the households in a Telco's service area. Representatives of small cable operators have advised me of additional issues that need to be addressed as this legislation moves forward. For example, there is a need to require all providers of cable services to comply with the same franchise requirements as local cable operators. Furthermore, certification of compliance with the interconnection and access requirements should be demonstrated through a public process.

I look forward to working with my colleagues in the Senate to resolve these outstanding issues so we can ensure that rural America has full access to the information superhighway.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill, H.R. 3626, as amended.

The question was taken.

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

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

The Chair announces that this vote will be taken after the next suspension.

GENERAL LEAVE

Mr. DINGELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

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

There was no objection.

NATIONAL COMMUNICATIONS COMPETITION AND INFORMATION INFRASTRUCTURE ACT OF 1994

Mr. MARKEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3636) to promote a national communications infrastructure to encourage deployment of advanced communications services through competition, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3636

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Communications Competition and Information Infrastructure Act of 1994".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—TELECOMMUNICATIONS INFRASTRUCTURE AND COMPETITION

Sec. 101. Policy; definitions.

Sec. 102. Equal access and network functionality and quality.

Sec. 103. Telecommunications services for educational institutions, health care institutions, and libraries.

Sec. 104. Discriminatory interconnection.

Sec. 105. Expedited licensing of new technologies and services.

Sec. 106. New or extended lines.

Sec. 107. Pole attachments.

Sec. 108. Civic participation.

Sec. 109. Competition by small business and minority-owned business concerns.

TITLE II—COMMUNICATIONS COMPETITIVENESS

Sec. 201. Cable service provided by telephone companies.

Sec. 202. Review of broadcasters' ownership restrictions.

Sec. 203. Review of statutory ownership restriction.

Sec. 204. Broadcaster spectrum flexibility.

Sec. 205. Interactive services and critical interfaces.

Sec. 206. Video programming accessibility.

Sec. 207. Public access.

Sec. 208. Automated ship distress and safety systems.

Sec. 209. Exclusive Federal jurisdiction over direct broadcast satellite service.

Sec. 210. Technical amendments.

Sec. 211. Availability of screening devices to preclude display of encrypted programming.

TITLE III—PROCUREMENT PRACTICES OF TELECOMMUNICATIONS PROVIDERS.

Sec. 301. Findings.

Sec. 302. Purpose.

Sec. 303. Annual plan submission.

Sec. 304. Sanctions and remedies.

Sec. 305. Definitions.

TITLE IV—FEDERAL COMMUNICATIONS COMMISSION RESOURCES

Sec. 401. Authorization of appropriations.

TITLE I—TELECOMMUNICATIONS INFRASTRUCTURE AND COMPETITION

SEC. 101. POLICY; DEFINITIONS.

(a) POLICY.—Section 1 of the Communications Act of 1934 (47 U.S.C. 151) is amended—

(1) by inserting "(a)" after "SECTION 1."; and

(2) by adding at the end thereof the following new subsection:

"(b) The purposes described in subsection (a), as they relate to common carrier services, include—

"(1) to preserve and enhance universal telecommunications service at just and reasonable rates;

"(2) to encourage the continued development and deployment of advanced and reliable capabilities and services in telecommunications networks;

"(3) to make available, so far as possible, to all the people of the United States, regardless of location or disability, a switched, broadband telecommunications network capable of enabling users to originate and receive affordable high quality voice, data, graphics, and video telecommunications services;

"(4) to ensure that the costs of such networks and services are allocated equitably among users and are constrained by competition whenever possible;

"(5) to ensure a seamless and open nationwide telecommunications network through joint planning, coordination, and service arrangements between and among carriers; and

"(6) to ensure that common carriers' networks function at a high standard of quality in delivering advances in network capabilities and services."

(b) DEFINITIONS.—Section 3 of such Act (47 U.S.C. 153) is amended—

(1) in subsection (r)—

(A) by inserting "(A)" after "means"; and

(B) by inserting before the period at the end the following: " or (B) service provided through a system of switches, transmission equipment, or other facilities (or combination thereof) by which a subscriber can originate and terminate a telecommunications service within a State but which does not result in the subscriber incurring a telephone toll charge"; and

(2) by adding at the end thereof the following:

"(gg) 'Information service' means the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, and includes electronic publishing, but does not include any use of any such capability for the management, control, or operation of a telecommunications system or the management of a telecommunications service.

"(hh) 'Equal access' means to afford, to any person seeking to provide an information service or a telecommunications service, reasonable and nondiscriminatory access on an unbundled basis—

"(1) to databases, signaling systems, poles, ducts, conduits, and rights-of-way owned or controlled by a local exchange carrier, or other facilities, functions, or information (including subscriber numbers) integral to the efficient transmission, routing, or other provision of telephone exchange services or telephone exchange access services;

"(2) that is at least equal in type, quality, and price to the access which the carrier affords to itself or to any other person; and

"(3) that is sufficient to ensure the full interoperability of the equipment and facilities of the carrier and of the person seeking such access.

"(ii) 'Open platform service' means a switched, end-to-end digital telecommunications service that is subject to title II of this Act, and that (1) provides subscribers with sufficient network capability to access multimedia information services, (2) is widely available throughout a State, (3) is provided based on industry standards, and (4) is available to all subscribers on a single line basis upon reasonable request.

"(jj) 'Local exchange carrier' means any person that is engaged in the provision of telephone exchange service or telephone exchange access service. Such term does not include a person insofar as such person is engaged in the provision of a commercial mobile service under section 332(c), except to the extent that the Commission finds that such service as provided by such person in a State is a replacement for a substantial portion of the wireline telephone exchange service within such State.

"(kk) 'Telephone exchange access service' means the offering of telephone exchange services or facilities for the purpose of the origination or termination of interexchange telecommunications services to or from an exchange area.

"(ll) 'Telecommunications' means the transmission, between or among points specified by the subscriber, of information of the subscriber's choosing, without change in the form or content of the information as sent and received, by means of an electromagnetic transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of such information) essential to such transmission.

"(mm) 'Telecommunications service' means the offering, on a common carrier basis, of telecommunications facilities, or of telecommunications by means of such facilities. Such term does not include an information service."

SEC. 102. EQUAL ACCESS AND NETWORK FUNCTIONALITY AND QUALITY.

(a) AMENDMENT.—Section 201 of the Communications Act of 1934 (47 U.S.C. 201) is amended by adding at the end thereof the following new subsections:

"(c) EQUAL ACCESS.—

"(1) OPENNESS AND ACCESSIBILITY OBLIGATIONS.—

"(A) COMMON CARRIER OBLIGATIONS.—The duty of a common carrier under subsection (a) to furnish communications service includes the duty to interconnect with the facilities and equipment of other providers of telecommunications services and information services in accordance with such regulations as the Commission may prescribe as necessary or desirable in the public interest with respect to the openness and accessibility of common carrier networks.

"(B) ADDITIONAL OBLIGATIONS OF LOCAL EXCHANGE CARRIERS.—The duty under subsection (a) of a local exchange carrier includes the duty—

"(i) to provide, in accordance with the regulations prescribed under paragraph (2), equal access to and interconnection with the facilities of the carrier's networks to any other carrier or person providing telecommunications services or information services reasonably requesting such equal access and interconnection, so that such networks are fully interoperable with such telecommunications services and information services; and

"(ii) to offer unbundled features, functions, and capabilities whenever technically feasible and economically reasonable, in accordance with requirements prescribed by the Commission pursuant to this subsection and other laws.

"(2) EQUAL ACCESS AND INTERCONNECTION REGULATIONS.—

"(A) REGULATIONS REQUIRED.—Within 1 year after the date of enactment of this subsection, the Commission shall establish regulations that require reasonable and nondiscriminatory equal access to and interconnection with the facilities of a local exchange carrier's network at any technically feasible and economically reasonable point within the carrier's network on reasonable terms and conditions, to any other carrier or person offering telecommunications services requesting such access. The Commission shall establish such regulations after consultation with the Joint Board established pursuant to subparagraph (D). Such regulations shall provide for actual collocation of equipment necessary for interconnection for telecommunications services at the premises of a local exchange carrier, except that the regulations shall provide for virtual collocation where the local exchange carrier demonstrates that actual collocation is not practical for technical reasons or because of space limitations.

"(B) COMPENSATION.—Within 1 year after the date of enactment of this subsection, the Commission shall establish regulations requiring just and reasonable compensation to the exchange carrier providing such equal access and interconnection pursuant to subparagraph (A). Such regulations shall include regulations to require the carrier, to the extent it provides a telecommunications service or an information service, to impute such access and interconnection charges to itself as the Commission determines are reasonable and nondiscriminatory.

"(C) EXEMPTIONS AND MODIFICATIONS.—Notwithstanding paragraph (1) or subparagraph (A) of this paragraph, a rural telephone company shall not be required to provide equal access and interconnection to another local exchange carrier. The Commission shall not apply the requirements of this paragraph or impose requirements pursuant to paragraph (1)(B)(ii) to any rural telephone company, except to the extent that the Commission determines that compliance with such requirements would not be unduly economically burdensome, unfairly competitive, technologically infeasible, or otherwise not in the public interest. The Commission may modify the requirements of this paragraph for any other local exchange carrier that has, in the aggregate nationwide, fewer than 500,000 access lines installed, to the extent that the Commission determines that compliance with such requirements (without such modification) would be unduly economically burdensome, technologically infeasible, or otherwise not in the public interest. The Commission may include, in the regulations prescribed pursuant to paragraph (1)(B), modified requirements for any feature, function, or capability that the Commission determines is generally available to competing providers of telecommunications services or information services at the same or better price, terms, and conditions.

"(D) JOINT BOARD ON EQUAL ACCESS AND INTERCONNECTION STANDARDS.—Within 30 days after the date of enactment of this subsection, the Commission shall convene a Federal-State Joint Board under section 410(c) for the purpose of preparing a recommended decision for the Commission with

respect to the equal access and interconnection regulations required by this paragraph.

"(E) ENFORCEMENT OF EXISTING REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of this subsection in fulfilling the requirements of this subsection, to the extent that such regulations are consistent with the provisions of this subsection.

"(F) DEFINITION OF RURAL TELEPHONE COMPANY.—For the purpose of subparagraph (C) of this paragraph, the term 'rural telephone company' means a local exchange carrier operating entity to the extent that such entity—

"(i) provides common carrier service to any local exchange carrier study area that does not include either—

"(I) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recent available population statistics of the Bureau of the Census; or

"(II) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of August 10, 1993;

"(ii) provides telephone exchange service, including telephone exchange access service, to fewer than 50,000 access lines; or

"(iii) provides telephone exchange service to any local exchange carrier study area with fewer than 100,000 access lines.

"(3) PREEMPTION.—

"(A) LIMITATION.—Notwithstanding section 2(b), no State or local government may, after one year after the date of enactment of this subsection—

"(i) effectively prohibit any person or carrier from providing any interstate or intrastate telecommunications service or information service, or impose any restriction or condition on entry into the business of providing any such service;

"(ii) prohibit any carrier or other person providing interstate or intrastate telecommunications services or information services from exercising the access and interconnection rights provided under this subsection; or

"(iii) impose any limitation on the exercise of such rights.

"(B) PERMITTED TERMS AND CONDITIONS.—Subparagraph (A) shall not be construed to prohibit a State from imposing a term or condition on providers of telecommunications services or information services if such term or condition does not effectively prohibit any person or carrier from providing any interstate or intrastate telecommunications service or information service and is necessary and appropriate to—

"(i) protect public safety and welfare;

"(ii) ensure the continued quality of intrastate telecommunications;

"(iii) ensure that rates for intrastate telecommunications services are just and reasonable; or

"(iv) ensure that the provider's business practices are consistent with consumer protection laws and regulations.

"(C) NORMAL CONSTRUCTION PERMITS PERMITTED.—Subparagraph (A) shall not be construed to prohibit a local government from requiring a person or carrier to obtain ordinary and usual construction or similar permits for its operations if (i) such permit is required without regard to the nature of the business, and (ii) requiring such permit does not effectively prohibit any person or carrier from providing any interstate or intrastate telecommunications service or information service.

"(D) EXCEPTION.—In the case of commercial mobile services, the provisions of section 332(c)(3) shall apply in lieu of the provisions of this paragraph.

"(E) PARITY OF FRANCHISE AND OTHER CHARGES.—Notwithstanding section 2(b), no local government may, after 1 year after the date of enactment of this subsection, impose or collect any franchise, license, permit, or right-of-way fee or any assessment, rental, or any other charge or equivalent thereof as a condition for operating in the locality or for obtaining access to, occupying, or crossing public rights-of-way from any provider of telecommunications services that distinguishes between or among providers of telecommunications services, including the local exchange carrier. For purposes of this subsection, a franchise, license, permit, or right-of-way fee or an assessment, rental, or any other charge or equivalent thereof does not include any imposition of general applicability which does not distinguish between or among providers of telecommunications services, or any tax.

"(4) TARIFFS.—

"(A) GENERALLY.—Within 18 months after the date of enactment of this subsection, a local exchange carrier shall prepare and file tariffs in accordance with this Act with respect to the services or elements offered to comply with the equal access and interconnection regulations required under this subsection. The costs that a carrier incurs in providing such services or elements shall be borne solely by the users of the features and functions comprising such services or elements or of the feature or function that uses or includes such services or elements. The Commission shall review such tariffs to ensure that—

"(i) the charges for such services or elements are cost-based; and

"(ii) the terms and conditions contained in such tariffs unbundle any separable services, elements, features, or functions in accordance with paragraph (1)(B)(ii) and any regulations thereunder.

"(B) SUPPORTING INFORMATION.—A local exchange carrier shall submit supporting information with its tariffs for equal access and interconnection that is sufficient to enable the Commission and the public to determine the relationship between the proposed charges and the costs of providing such services or elements. The submission of such information shall be pursuant to regulations adopted by the Commission to ensure that similarly situated carriers provide such information in a uniform fashion.

"(5) PRICING FLEXIBILITY.—

"(A) ESTABLISHMENT OF CRITERIA.—Within 270 days after the date of enactment of this subsection, the Commission, by regulation, shall establish criteria for determining—

"(i) whether a telecommunications service or provider of such service has become, or is substantially certain to become, subject to competition, either within a geographic area or within a class or category of service;

"(ii) whether such competition will effectively prevent rates for such service that are unjust or unreasonable or that are unjustly or unreasonably discriminatory; and

"(iii) appropriate flexible pricing procedures that can be used in lieu of the filing of tariff schedules, or in lieu of other pricing procedures established by the Commission, and that are consistent with the protection of subscribers and the public interest, convenience, and necessity.

"(B) DETERMINATIONS.—The Commission, with respect to rates for interstate or foreign communications, and State commissions,

with respect to rates for intrastate communications, shall, upon application—

“(i) render determinations in accordance with the criteria established under clauses (i) and (ii) of subparagraph (A) concerning the services or providers that are the subject of such application; and

“(ii) upon a proper showing, establish appropriate flexible pricing procedures consistent with the criteria established under clause (iii) of such subparagraph.

The Commission shall approve or reject any such application within 180 days after the date of its submission.

“(C) EXCEPTION.—In the case of commercial mobile services, the provisions of section 332(c)(1) shall apply in lieu of the provisions of this paragraph.

“(6) JOINT BOARD TO PRESERVE UNIVERSAL SERVICE.—

“(A) ESTABLISHMENT; FUNCTIONS.—Within 30 days after the date of enactment of this subsection, the Commission shall convene a Federal-State Joint Board under section 410(c) for the purpose of recommending actions to the Commission and State commissions for the preservation of universal service. As a part of preparing such recommendations, the Joint Board shall survey providers and users of telephone exchange service and consult with State commissions in order to determine the pecuniary difference between the cost of providing universal service and the prices determined to be appropriate for such service.

“(B) PRINCIPLES.—The Joint Board shall base policies for the preservation of universal service on the following principles:

“(i) A plan adopted by the Commission and the States should ensure the continued viability of universal service by maintaining quality services at just and reasonable rates.

“(ii) Such plan should define the nature and extent of the services encompassed within carriers' universal service obligations. Such plan should seek to promote access to advanced telecommunications services and capabilities, including open platform service, for all Americans by including access to advanced telecommunications services and capabilities in the definition of universal service while maintaining just and reasonable rates. Such plan should seek to promote reasonably comparable services for the general public in urban and rural areas.

“(iii) Such plan should establish specific and predictable mechanisms to provide adequate and sustainable support for universal service.

“(iv) All providers of telecommunications services should make an equitable and non-discriminatory contribution to preservation of universal service.

“(v) Such plan should permit residential subscribers to continue to receive only basic voice-grade local telephone service, for a period of not more than 5 years, equivalent to the service generally available to residential subscribers on the date of enactment of this subsection, at just, reasonable, and affordable rates. Determinations concerning the affordability of rates for such services shall take into account the rates generally available to residential subscribers on such date of enactment and the pricing rules established by the States. If the plan would result in any increases in the rates for such services for residential subscribers that are not attributable to changes in consumer prices generally, such plan should include a requirement that a rate increase shall be permitted in any proceeding commenced after March 16, 1994, only upon a showing that such increase is necessary to prevent com-

petitive disadvantages for one or more service providers and is in the public interest. Such plan should provide that any such increase in rates shall be minimized to the greatest extent practical and shall be implemented over a time period of not less than 5 years after the date of enactment of this subsection.

“(vi) To the extent that a common carrier establishes advanced telecommunications services, such plan should include provisions to promote public access to advanced telecommunications services, other than a video platform, at a preferential rate that will recover only the added costs of providing such service, for public service institutions, both as producers and users of services, as soon as technically feasible and economically reasonable. Such plan shall provide that such preferential rates should only be made available to such institutions for the purpose of providing noncommercial information services or telecommunications services to the general public and not for the internal telecommunications needs or commercial use of such institutions.

“(vii) Such plan should determine and establish mechanisms to ensure that rates charged by a provider of interexchange telecommunications services for services in rural areas are maintained at levels no higher than those charged by the same carrier to subscribers in urban areas.

“(viii) Such plan should, notwithstanding any other provision of law, require common carriers serving more than 1,800,000 access lines in the aggregate nationwide, to be subject to alternative or price regulation, and not cost-based rate-of-return regulation, for services that are subject to the jurisdiction of the Commission or the States, as applicable, when such carrier's network has been made open to competition as a result of its implementation of the equal access, interconnection, and accessibility provisions of this subsection.

“(ix) Such other principles as the Board determines are necessary and appropriate for the protection of the public interest, convenience, and necessity and consistent with the purposes of this Act.

“(C) DEFINITION OF UNIVERSAL SERVICE; ACCESS TO ADVANCED SERVICES.—In defining the nature and extent of the services encompassed within carriers' universal service obligations under subparagraph (B)(ii), the Joint Board shall consider the extent to which—

“(i) a telecommunications service has, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;

“(ii) denial of access to such service to any individual would unfairly deny that individual educational and economic opportunities;

“(iii) such service has been deployed in the public switched telecommunications network; and

“(iv) inclusion of such service within carriers' universal service obligations is otherwise consistent with the public interest, convenience, and necessity.

The Joint Board may, from time to time, recommend to the Commission modifications in the definition proposed under subparagraph (B).

“(D) REPORT; COMMISSION RESPONSE.—The Joint Board convened pursuant to subparagraph (A) shall report its recommendations within 270 days after the date of enactment of this subsection. The Commission shall complete any proceeding to act upon such recommendations within one year after such date of enactment. A State may adopt regu-

lations to implement the Joint Board's recommendations, except that such regulations shall not, after 18 months after such date of enactment, be inconsistent with regulations prescribed by the Commission to implement such recommendations.

“(E) DEFINITION OF PUBLIC SERVICE INSTITUTION.—For the purposes of this paragraph, the term ‘public service institution’ means—

“(i) an agency or instrumentality of Federal, State, or local government;

“(ii) a nonprofit educational institution, health care institution, public library, public museum, or public broadcasting station or entity;

“(iii) a charitable organizations that (I) is exempt from Federal income taxes under section 501(c)(3) of the Internal Revenue Code of 1986; (II) provides public services in conjunction with an agency, instrumentality, institution, or entity described in clause (i) or (ii); and (III) provides information that is useful to the public and that is related to the work of such an agency, instrumentality, institution, or entity.

“(7) CROSS SUBSIDIES PROHIBITION.—The Commission shall—

“(A) prescribe regulations to prohibit a common carrier from engaging in any practice that results in the inclusion in rates for telephone exchange service or telephone exchange access service of any operating expenses, costs, depreciation charges, capital investments, or other expenses directly associated with the provision of competing telecommunications services, information services, or video programming services by the common carrier or affiliate; and

“(B) ensure such competing telecommunications services, information services or video programming services bear a reasonable share of the joint and common costs of facilities used to provide telephone exchange service or telephone exchange access service and competing telecommunications services, information services, or video programming services.

“(8) RESALE.—The resale or sharing of telephone exchange service (or unbundled services, elements, features, or functions of telephone exchange service) in conjunction with the furnishing of a telecommunications service or an information service shall not be prohibited nor subject to unreasonable conditions by the carrier, the Commission, or any State.

“(9) TELECOMMUNICATIONS NUMBER PORTABILITY.—The Commission shall prescribe regulations to ensure that—

“(A) telecommunications number portability shall be available, upon request, as soon as technically feasible and economically reasonable; and

“(B) an impartial entity shall administer telecommunications numbering and make such numbers available on an equitable basis.

The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States. For the purpose of this paragraph, the term ‘telecommunications number portability’ means the ability of users of telecommunications services to retain existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one provider of telecommunications services to another.

“(10) REVIEW OF STANDARDS AND REQUIREMENTS.—At least once every three years, the Commission shall—

“(A) conduct a proceeding in which interested parties shall have an opportunity to

comment on whether the standards and requirements established by or under this subsection have opened the networks of carriers to reasonable and nondiscriminatory access by providers of telecommunications services and information services;

"(B) review the definition of, and the adequacy of support for, universal service, and evaluate the extent to which universal service has been protected and access to advanced services has been facilitated pursuant to this subsection and the plans and regulations thereunder; and

"(C) submit to the Congress a report containing a statement of the Commission's findings pursuant to such proceeding, and including an identification of any defects or delays observed in attaining the objectives of this subsection and a plan for correcting such defects and delays.

"(1) STUDY OF RURAL PHONE SERVICE.—Within 1 year after the date of enactment of this subsection, the Commission shall initiate an inquiry to examine the effects of competition in the provision of telephone exchange access service and telephone exchange service on the availability and rates for telephone exchange access service and telephone exchange service furnished by rural exchange carriers.

"(d) NETWORK FUNCTIONALITY AND QUALITY.—

"(1) FUNCTIONALITY AND RELIABILITY OBLIGATIONS.—The duty of a common carrier under subsection (a) to furnish communications service includes the duty to furnish that service in accordance with such regulations of functionality and reliability as the Commission may prescribe as necessary or desirable in the public interest pursuant to this subsection.

"(2) COORDINATED PLANNING FOR INTEROPERABILITY AND OTHER PURPOSES.—The Commission shall establish—

"(A) procedures for the conduct of coordinated network planning by common carriers and other providers of telecommunications services or information services, subject to Commission supervision, for the effective and efficient interconnection and interoperability of public and private networks; and

"(B) procedures for Commission oversight of the development by appropriate standards-setting organizations of—

"(i) standards for the interconnection and interoperability of such networks;

"(ii) standards that promote access to network capabilities and services by individuals with disabilities; and

"(iii) standards that promote access to information services by subscribers to telephone exchange service furnished by a rural telephone company (as such term is defined in subsection (c)(2)(F)).

"(3) OPEN PLATFORM SERVICE.—

"(A) STUDY.—Within 90 days after the date of enactment of this subsection, the Commission shall initiate an inquiry to consider the regulations and policies necessary to make open platform service available to subscribers at reasonable rates based on the reasonably identifiable costs of providing such service, utilizing existing facilities or new facilities with improved capability or efficiency. The inquiry required under this paragraph shall be completed within 180 days after the date of its initiation.

"(B) REGULATIONS.—On the basis of the results of the inquiry required under subparagraph (A), the Commission shall prescribe and make effective such regulations as are necessary to implement the inquiry's conclusions. Such regulations may require a local exchange carrier to file, in the appropriate

jurisdiction, tariffs for the origination and termination of open platform service as soon as such service is economically and technically feasible. In establishing any such regulations, the Commission shall take into account the proximate and long-term deployment plans of local exchange carriers.

"(C) TEMPORARY WAIVER.—The Commission shall also establish a procedure to waive temporarily specific provisions of the regulations prescribed under this paragraph if a local exchange carrier demonstrates that compliance with such requirement—

"(i) would be economically or technically infeasible, or

"(ii) would materially delay the deployment of new facilities with improved capabilities or efficiencies that will be used to meet the requirements of open platform services.

Such petitions shall be decided by the Commission within 180 days after the date of its submission.

"(D) COST ALLOCATION.—Any such regulations shall provide for the allocation of all costs of facilities jointly used to provide open platform service and telephone exchange service or telephone exchange access services.

"(E) STATE AUTHORITY.—Nothing in this paragraph shall be construed to limit a State's authority to continue to regulate any services subject to State jurisdiction under this Act.

"(F) COMMISSION INQUIRY.—Within 2 years after the date of enactment of this paragraph, the Commission shall conduct an inquiry concerning the deployment of open platform service and other advanced telecommunications network capabilities, including switched, broadband telecommunications facilities. In conducting such inquiry, the Commission shall seek to develop information concerning—

"(i) the availability of such network capabilities to all Americans;

"(ii) the availability of such network capabilities to different regions, States, and classes of subscribers;

"(iii) the availability of advanced network technology needed to deploy such network capabilities; and

"(iv) likely deployment schedules for such network capabilities by region, State, and classes of subscribers.

The Commission shall submit a report to the Congress on the results of such inquiry within 270 days after the commencement of such inquiry, and annually thereafter for the succeeding 5 years.

"(4) ACCESSIBILITY REGULATIONS.—

"(A) REGULATIONS.—Within 1 year after the date of enactment of this section, the Commission shall prescribe such regulations as are necessary to ensure that advances in network services deployed by local exchange carriers shall be accessible and usable by individuals with disabilities, including individuals with functional limitations of hearing, vision, movement, manipulation, speech, and interpretation of information, unless the cost of making the services accessible and usable would result in an undue burden or adverse competitive impact. Such regulations shall seek to permit the use of both standard and special equipment, and seek to minimize the need of individuals to acquire additional devices beyond those used by the general public to obtain such access. Throughout the process of developing such regulations, the Commission shall coordinate and consult with representatives of individuals with disabilities and interested equipment and service providers to ensure

their concerns and interests are given full consideration in such process.

"(B) COMPATIBILITY.—Such regulations shall require that whenever an undue burden or adverse competitive impact would result from the requirements in subparagraph (A), the local exchange carrier that deploys the network service shall ensure that the network service in question is compatible with existing peripheral devices or specialized customer premises equipment commonly used by persons with disabilities to achieve access, unless doing so would result in an undue burden or adverse competitive impact.

"(C) UNDUER BURDEN.—The term 'undue burden' means significant difficulty or expense. In determining whether the activity necessary to comply with the requirements of this paragraph would result in an undue burden, the factors to be considered include the following:

"(i) The nature and cost of the activity.

"(ii) The impact on the operation of the facility involved in the deployment of the network service.

"(iii) The financial resources of the local exchange carrier.

"(iv) The type of operations of the local exchange carrier.

"(D) ADVERSE COMPETITIVE IMPACT.—In determining whether the activity necessary to comply with the requirements of this paragraph would result in adverse competitive impact, the following factors shall be considered:

"(i) Whether such activity would raise the cost of the network service in question beyond the level at which there would be sufficient consumer demand by the general population to make the network service profitable.

"(ii) Whether such activity would, with respect to the network service in question, put the local exchange carrier at a competitive disadvantage. This factor may be considered so long as competing network service providers are not held to the same obligation with respect to access by persons with disabilities.

"(E) REVIEW OF STANDARDS AND REQUIREMENTS.—At least once every 3 years, the Commission shall conduct a proceeding in which interested parties shall have an opportunity to comment on whether the regulations established under this paragraph have ensured that advances in network services by providers of telecommunications services and information services are accessible and usable by individuals with disabilities.

"(F) EFFECTIVE DATE.—The regulations required by this paragraph shall become effective 18 months after the date of enactment of this subsection.

"(5) QUALITY RULES.—

"(A) MEASURES OR BENCHMARKS REQUIRED.—The Commission shall designate or otherwise establish network reliability and quality performance measures or benchmarks for common carriers for the purpose of ensuring the continued maintenance and evolution of common carrier facilities and service. Not later than 180 days after the date of enactment of this subsection, the Commission shall initiate a rulemaking proceeding to establish such performance measures or benchmarks.

"(B) CONTENTS OF REGULATIONS.—Such regulations shall include—

"(i) quantitative network reliability and service quality performance measures or benchmarks;

"(ii) procedures to monitor and evaluate common carrier efforts to increase network reliability and service quality; and

"(iii) procedures to resolve network reliability and service quality complaints.

"(C) COORDINATION AND CONSULTATION.—Throughout the process of developing network reliability and service quality performance measures or benchmarks, as required by subparagraphs (A) and (B), the Commission shall coordinate and consult with service and equipment providers and users and State regulatory bodies to ensure their concerns and interests are given full consideration in such process.

"(6) RURAL EXEMPTION.—The Commission may modify, or grant exemptions from, the requirements of this subsection in the case of a common carrier providing telecommunications services in a rural area.

"(e) INFRASTRUCTURE SHARING.—

"(1) REGULATIONS REQUIRED.—Within one year after the date of enactment of this subsection, the Commission shall prescribe regulations that require local exchange carriers to make available to qualifying carriers such public switched telecommunications network technology and information and telecommunications facilities and functions as may be requested by such a qualifying carrier for the purpose of enabling that carrier to provide telecommunications services, or to provide access to information services, in the geographic area in which that carrier has requested and obtained designation as the qualifying carrier.

"(2) QUALIFYING CARRIERS.—For purposes of paragraph (1), the term 'qualifying carrier' means a local exchange carrier that—

"(A) lacks economies of scale or scope, as determined in accordance with regulations prescribed by the Commission pursuant to this subsection; and

"(B) is a common carrier which offers telephone exchange service, telephone exchange access service, and any other service that is within the definition of universal service, to all customers without preference throughout one or more exchange areas in existence on the date of enactment of this subsection.

"(3) TERMS AND CONDITIONS OF REGULATIONS.—The regulations prescribed by the Commission pursuant to this subsection—

"(A) shall not require any local exchange carrier to take any action that is economically unreasonable or that is contrary to the public interest or to provide telecommunications facilities and functions to any qualifying carrier that is not reasonably proximate to such local exchange carrier;

"(B) shall permit, but shall not require, the joint ownership or operation of public switched telecommunications network facilities, functions, and services by or among the local exchange carrier and the qualifying carrier;

"(C) shall ensure that a local exchange carrier shall not be treated by the Commission or any State commission as a common carrier for hire, or as offering common carrier services, with respect to any technology, information, facilities, or functions made available to a qualifying carrier pursuant to this subsection;

"(D) shall ensure that local exchange carriers make such technology, information, facilities, or functions available to qualifying carriers on fair and reasonable terms and conditions that permit such qualifying carriers to fully benefit from the economies of scale and scope of the providing local exchange carrier, as determined in accordance with guidelines prescribed by the Commission in such regulations;

"(E) shall establish conditions that promote cooperation between local exchange carriers and qualifying carriers; and

"(F) shall not require any local exchange carrier to engage in any infrastructure sharing agreement for any geographic area where such carrier is required to provide services subject to State regulation.

"(4) INFORMATION CONCERNING DEPLOYMENT OF NEW SERVICES AND EQUIPMENT.—Any local exchange carrier that has entered into an agreement with a qualifying carrier under this subsection shall provide to each party to such agreement timely information on the planned deployment of telecommunications services and equipment, including software integral to such telecommunications services and equipment, including upgrades."

(b) PREEMPTION OF FRANCHISING AUTHORITY REGULATION OF TELECOMMUNICATIONS SERVICES.—

(1) TELECOMMUNICATIONS SERVICES.—Section 621(b) of the Communications Act of 1934 (47 U.S.C. 541(c)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) To the extent that a cable operator or affiliate thereof is engaged in the provision of telecommunications services—

"(i) such cable operator or affiliate shall not be required to obtain a franchise under this title; and

"(ii) the provisions of this title shall not apply to such cable operator or affiliate.

"(B) A franchising authority may not impose any requirement that has the purpose or effect of prohibiting, limiting, restricting, or conditioning the provision of a telecommunications service by a cable operator or an affiliate thereof.

"(C) A franchising authority may not order a cable operator or affiliate thereof—

"(i) to discontinue the provision of a telecommunications service, or

"(ii) to discontinue the operation of a cable system, to the extent such cable system is used for the provision of a telecommunications service, by reason of the failure of such cable operator or affiliate thereof to obtain a franchise or franchise renewal under this title with respect to the provision of such telecommunications service.

"(D) A franchising authority may not require a cable operator to provide any telecommunications service or facilities as a condition of the initial grant of a franchise or a franchise renewal."

(2) FRANCHISE FEES.—Section 622(b) of the Communications Act of 1934 (47 U.S.C. 542(b)) is amended by inserting "to provide cable services" immediately before the period at the end of the first sentence thereof.

(c) CONFORMING AMENDMENT.—Section 2(b) of the Communications Act of 1934 (47 U.S.C. 152(b)) is amended by inserting "201(c) and (d)," after "Except as provided in sections".

SEC. 103. TELECOMMUNICATIONS SERVICES FOR EDUCATIONAL INSTITUTIONS, HEALTH CARE INSTITUTIONS, AND LIBRARIES.

Title II of the Communications Act of 1934 is amended by adding at the end the following new section:

"SEC. 229. TELECOMMUNICATIONS SERVICES FOR EDUCATIONAL INSTITUTIONS, HEALTH CARE INSTITUTIONS, AND LIBRARIES.

"(a) PROMOTION OF DELIVERY OF ADVANCED SERVICES.—In fulfillment of its obligation under section 1 to make available to all the people of the United States a rapid, efficient, nationwide, and worldwide communications service, the Commission shall promote the provision of advanced telecommunications services by wire, wireless, cable, and satellite technologies to—

"(1) educational institutions;

"(2) health care institutions; and

"(3) public libraries.

"(b) ANNUAL SURVEY REQUIRED.—The National Telecommunications and Information Administration shall conduct a nationwide survey of the availability of advanced telecommunications services to educational institutions, health care institutions, and public libraries. The Administration shall complete the survey and release publicly the results of such survey not later than one year after the date of enactment of this section. The results of such survey shall include—

"(1) the number of educational institutions and classrooms, health care institutions, and public libraries;

"(2) the number of educational institutions and classrooms, health care institutions, and public libraries that have access to advanced telecommunications services; and

"(3) the nature of the telecommunications facilities through which such educational institutions, health care institutions, and public libraries obtain access to advanced telecommunications services.

The National Telecommunications and Information Administration shall update annually the survey required by this section. The survey required under this subsection shall be prepared in consultation with the Department of Education, Department of Health and Human Services, and such other Federal, State, and local departments, agencies, and authorities that may maintain or have access to information concerning the availability of advanced telecommunications services to educational institutions, health care institutions, and libraries.

"(c) RULEMAKING REQUIRED.—Within one year after the date of enactment of this section, the Commission shall issue a notice of proposed rulemaking for the purpose of adopting regulations that—

"(1) enhance, to the extent technically feasible and economically reasonable, the availability of advanced telecommunications services to all educational institutions and classrooms, health care institutions, and public libraries by the year 2000;

"(2) ensure that appropriate functional requirements or performance standards, or both, including interoperability standards, are established for telecommunications systems or facilities that interconnect educational institutions, health care institutions, and public libraries with the public switched telecommunications network;

"(3) define the circumstances under which a carrier may be required to interconnect its telecommunications network with educational institutions, health care institutions, and public libraries;

"(4) provide for either the establishment of preferential rates for telecommunications services, including advanced services, that are provided to educational institutions, health care institutions, and public libraries, or the use of alternative mechanisms to enhance the availability of advanced services to these institutions; and

"(5) address such other related matters as the Commission may determine.

"(d) FEASIBILITY STUDY.—The Commission shall assess the feasibility of including post-secondary educational institutions in any regulations promulgated under this section.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'educational institutions' means elementary and secondary educational institutions; and

"(2) the term 'health care institutions' means not-for-profit health care institutions, including hospitals and clinics."

SEC. 104. DISCRIMINATORY INTERCONNECTION.

Section 208 of the Communications Act of 1934 is amended by adding at the end thereof the following new subsection:

“(c) **EXPEDITED REVIEW OF CERTAIN COMPLAINTS.**—The Commission shall issue a final order with respect to any complaint arising from alleged violations of the regulations and orders prescribed pursuant to section 201(c) within 180 days after the date such complaint is filed.”

SEC. 105. EXPEDITED LICENSING OF NEW TECHNOLOGIES AND SERVICES.

Section 7 of the Communications Act of 1934 (47 U.S.C. 157) is amended by adding at the end thereof the following new subsection:

“(c) **LICENSING OF NEW TECHNOLOGIES.**—

“(1) **EXPEDITED RULEMAKING.**—Within 24 months after making a determination under subsection (b) that a technology or service related to the furnishing of telecommunications services is in the public interest, the Commission shall, with respect to any such service requiring a license or other authorization from the Commission, adopt and make effective regulations for—

“(A) the provision of such technology or service; and

“(B) the filing of applications for the licenses or authorizations necessary to offer such technology or service to the public, and shall act on any such application within 24 months after it is filed.

“(2) **REVIEW OF APPLICATIONS.**—Any application filed by a carrier under this subsection for the construction or extension of a line shall also be subject to section 214 and to any necessary approval by the appropriate State commissions.”

SEC. 106. NEW OR EXTENDED LINES.

Section 214 of the Communications Act of 1934 is amended by adding at the end the following new subsection:

“(e) Any application filed under this section for authority to construct or extend a line shall address the means by which such construction or extension will meet the network access needs of individuals with disabilities.”

SEC. 107. POLE ATTACHMENTS.

Section 224 of the Communications Act of 1934 (47 U.S.C. 244) is amended—

(1) in subsection (a)(4), by inserting after “system” the following: “or a provider of telecommunications service”;

(2) in subsection (c)(2)(B), by striking “cable television services” and inserting “the services offered via such attachments”;

(3) by redesignating subsection (d)(2) as subsection (d)(4); and

(4) by striking subsection (d)(1) and inserting the following:

“(d)(1) For purposes of subsection (b) of this section, the Commission shall, no later than 1 year after the date of enactment of the National Communications Competition and Information Infrastructure Act of 1994, prescribe regulations for ensuring that utilities charge just and reasonable and non-discriminatory rates for pole attachments provided to all providers of telecommunications services, including such attachments used by cable television systems to provide telecommunications services (as defined in section 3(mm) of this Act). Such regulations shall—

“(A) recognize that the entire pole, duct, conduit, or right-of-way other than the usable space is of equal benefit to all attachments to the pole, duct, conduit, or right-of-way and therefore apportion the cost of the space other than the usable space equally among all such attachments,

“(B) recognize that the usable space is of proportional benefit to all entities attached

to the pole, duct, conduit, or right-of-way and therefore apportion the cost of the usable space according to the percentage of usable space required for each entity, and

“(C) allow for reasonable terms and conditions relating to health, safety, and the provision of reliable utility service.

“(2) The final regulations prescribed by the Commission pursuant to subparagraphs (A), (B), and (C) of paragraph (1) shall not apply to a pole attachment used by a cable television system solely to provide cable service as defined in section 602(6) of this Act. The rates for pole attachments used for such purposes shall assure a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct, conduit, or right-of-way capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way.

“(3) For all providers of telecommunications services except members of the exchange carrier association established in 47 C.F.R. 69.601 as of December 31, 1993, upon enactment of this paragraph and until the Commission promulgates its final regulations pursuant to subparagraphs (A), (B), and (C) of paragraph (1), the rate formula contained in any joint use pole attachment agreement between the electric utility and the largest local exchange carrier having such a joint use agreement in the utility's service area, in effect on January 1, 1994, shall also apply to the pole attachments in the utility's service area, but if no such joint use agreement containing a rate formula exists, then the pole attachment rate shall be the rate applicable under paragraph (2) to cable television systems which solely provide cable service as defined in section 602(6) of this Act. Disputes concerning the applicability of a joint use agreement shall be resolved by the Commission or the States, as appropriate.”

SEC. 108. CIVIC PARTICIPATION.

(a) **POLICIES TO ENHANCE CIVIC DIALOGUE.**—The Commission, in consultation with the National Telecommunications and Information Administration, shall study policies that will enhance civic participation through the national information infrastructure. The study shall request and record public comments on Federal policies that would enhance and expand democratic dialogue through national computer and data networks. The study shall examine, but not be limited to, the social benefits of flat rate pricing for access to computer and data networks, the policies which will determine how access to computer networks will be priced, including the access needs of individuals with disabilities, and the appropriate role of common carriers in the development of national computer and data networks. The Commission shall receive comments in both paper and electronic formats and shall establish an online discussion group accessed through the national information infrastructure to encourage citizen participation in the study.

(b) **PARTICIPATION IN REGULATORY AFFAIRS.**—The Commission, in consultation with the Office of Consumer Affairs, shall conduct a study of how to encourage citizen participation in regulatory issues and, within 120 days from the date of enactment of this Act, report to Congress on the results of the study.

SEC. 109. COMPETITION BY SMALL BUSINESS AND MINORITY-OWNED BUSINESS CONCERNS.

Title II of the Communications Act of 1934 is amended by adding at the end the following new section:

“SEC. 230. POLICY AND RULEMAKING TO PROMOTE DIVERSITY OF OWNERSHIP.

“(a) **FINDINGS.**—The Congress finds that—

“(1) in furtherance of the purposes of this Act to make available to all people of the United States a rapid and efficient communications service, and for the purposes of promoting a diversity of opinion in the broadcasting service, the Commission has established regulations and policies to promote ownership of broadcasting services by members of minority groups;

“(2) these regulations have served to promote more vigorous communications on public issues, to broaden the number and variety of stakeholders in the American economy, and to promote innovation by and creativity by Americans of different cultures and national origins, and thereby have served to build a more cohesive and productive society;

“(3) while the Commission has adopted regulations to promote participation by businesses owned by members of minority groups and women, and small businesses, in auctions for certain spectrum-based services which promote diversity of ownership in those services, no other regulations have been established to promote such diversity of participation in the provision of common carrier services or in the provision of other telecommunications and information services;

“(4) the goals of competitively priced services, service innovation, employment, and diversity of viewpoint can be advanced by promoting marketplace penetration by small business concerns, business concerns owned by women and members of minority groups, and nonprofit entities; and

“(5) it should be the policy of the Commission to promote whenever possible diversity of ownership in the provision of information services and telecommunication services by such concerns and entities.

“(b) **RULEMAKING REQUIRED.**—Within 1 year after the date of enactment of this section, the Commission, in consultation with the National Telecommunications and Information Administration, shall initiate a rulemaking proceeding for the purpose of lowering market entry barriers for small business, business concerns owned by women and members of minority groups, and nonprofit entities that are seeking to provide telecommunication services and information services. The proceeding shall seek to provide remedies for, among other things, lack of access to capital and technical and marketing expertise on the part of such concerns and entities. Consistent with the broad policy and finding set forth in subsection (a), the Commission shall adopt such regulations and make such recommendations to Congress as the Commission deems appropriate. Not later than 2 years after the date of enactment of this section, the Commission shall complete the proceeding required by this subsection.”

TITLE II—COMMUNICATIONS COMPETITIVENESS**SEC. 201. CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.**

(a) **GENERAL REQUIREMENT.**—

(1) **AMENDMENT.**—Section 613(b) of the Communications Act of 1934 (47 U.S.C. 533(b)) is amended to read as follows:

“(b)(1) Subject to the requirements of part V and the other provisions of this title, any

common carrier subject in whole or in part to title II of this Act may, either through its own facilities or through an affiliate owned, operated, or controlled by, or under common control with, the common carrier, provide video programming directly to subscribers in its telephone service area.

"(2) Subject to the requirements of part V and the other provisions of this title, any common carrier subject in whole or in part to title II of this Act may provide channels of communications or pole, line, or conduit space, or other rental arrangements, to any entity which is directly or indirectly owned, operated, or controlled by, or under common control with, such common carrier, if such facilities or arrangements are to be used for, or in connection with, the provision of video programming directly to subscribers in its telephone service area.

"(3) Notwithstanding paragraphs (1) and (2), an affiliate that—

"(A) is, consistent with section 656, owned, operated, or controlled by, or under common control with, a common carrier subject in whole or in part to title II of this Act, and

"(B) provides video programming to subscribers in the telephone service area of such carrier, but

"(C) does not utilize the local exchange facilities or services of any affiliated common carrier in distributing such programming, shall not be subject to the requirements of part V, but shall be subject to the requirements of this part and parts III and IV."

(2) CONFORMING AMENDMENT.—Section 602 of the Communications Act of 1934 (47 U.S.C. 531) is amended—

(A) in paragraph (6)(B), by inserting "or use" after "the selection";

(B) by redesignating paragraphs (18) and (19) as paragraphs (19) and (20) respectively; and

(C) by inserting after paragraph (17) the following new paragraph:

"(18) the term 'telephone service area' when used in connection with a common carrier subject in whole or in part to title II of this Act means the area within which such carrier provides telephone exchange service as of November 20, 1993, but if any common carrier after such date transfers its exchange service facilities to another common carrier, the area to which such facilities provide telephone exchange service shall be treated as part of the telephone service area of the acquiring common carrier and not of the selling common carrier;"

(b) PROVISIONS FOR REGULATION OF CABLE SERVICE PROVIDED BY TELEPHONE COMPANIES.—Title VI of the Communications Act of 1934 (47 U.S.C. 521 et seq.) is amended by adding at the end the following new part:

"PART V—VIDEO PROGRAMMING SERVICES PROVIDED BY TELEPHONE COMPANIES

"SEC. 651. DEFINITIONS.

"For purposes of this part—

"(1) the term 'control' means—

"(A) an ownership interest in which an entity has the right to vote more than 50 percent of the outstanding common stock or other ownership interest; or

"(B) if no single entity directly or indirectly has the right to vote more than 50 percent of the outstanding common stock or other ownership interest, actual working control, in whatever manner exercised, as defined by the Commission by regulation on the basis of relevant factors and circumstances, which shall include partnership and direct ownership interests, voting stock interests, the interests of officers and directors, and the aggregation of voting interests; and

"(2) the term 'rural area' means a geographic area that does not include either—

"(A) any incorporated or unincorporated place of 10,000 inhabitants or more, or any part thereof; or

"(B) any territory, incorporated or unincorporated, included in an urbanized area.

"SEC. 652. SEPARATE VIDEO PROGRAMMING AFFILIATE.

"(a) IN GENERAL.—Except as provided in subsection (d) of this section, a common carrier subject to title II of this Act shall not provide video programming directly to subscribers in its telephone service area unless such video programming is provided through a video programming affiliate that is separate from such carrier.

"(b) BOOKS AND MARKETING.—

"(1) IN GENERAL.—A video programming affiliate of a common carrier shall—

"(A) maintain books, records, and accounts separate from such carrier which identify all transactions with such carrier;

"(B) carry out directly (or through any nonaffiliated person) its own promotion, except that institutional advertising carried out by such carrier shall be permitted so long as each party bears its pro rata share of the costs; and

"(C) not own real or personal property in common with such carrier.

"(2) INBOUND TELEMARKETING AND REFERRAL.—Notwithstanding paragraph (1)(B), a common carrier may provide telemarketing or referral services in response to the call of a customer or potential customer related to the provision of video programming by a video programming affiliate of such carrier. If such services are provided to a video programming affiliate, such services shall be made available to any video programmer or cable operator on request, on nondiscriminatory terms, at just and reasonable prices, and subject to regulations of the Commission to ensure that the carrier's method of providing telemarketing or referral and its price structure do not competitively disadvantage any video programmer or cable operator, regardless of size, including those which do not use the carrier's telemarketing services.

"(3) JOINT TELEMARKETING.—Notwithstanding paragraph (1)(B), a common carrier may petition the Commission for permission to market video programming directly, upon a showing that a cable operator or other entity directly or indirectly provides telecommunications services within the telephone service area of the common carrier, and markets such telecommunications services jointly with video programming services. The common carrier shall specify the geographic region covered by the petition. Any such petition shall be granted or denied within 180 days after the date of its submission.

"(c) BUSINESS TRANSACTIONS WITH CARRIER SUBJECT TO REGULATION.—Any contract, agreement, arrangement, or other manner of conducting business, between a common carrier and its video programming affiliate, providing for—

"(1) the sale, exchange, or leasing of property between such affiliate and such carrier,

"(2) the furnishing of goods or services between such affiliate and such carrier, or

"(3) the transfer to or use by such affiliate for its benefit of any asset or resource of such carrier, shall be pursuant to regulation prescribed by the Commission, shall be on a fully compensatory and auditable basis, shall be without cost to the telephone service ratepayers of the carrier, shall be filed with the Commission, and shall be in compliance with regula-

tions established by the Commission that will enable the Commission to assess the compliance of any transaction.

"(d) WAIVER.—

"(1) CRITERIA FOR WAIVER.—The Commission may waive any of the requirements of this section for small telephone companies or telephone companies serving rural areas, if the Commission determines, after notice and comment, that—

"(A) such waiver will not affect the ability of the Commission to ensure that all video programming activity is carried out without any support from telephone ratepayers;

"(B) the interests of telephone ratepayers and cable subscribers will not be harmed if such waiver is granted;

"(C) such waiver will not adversely affect the ability of persons to obtain access to the video platform of such carrier; and

"(D) such waiver otherwise is in the public interest.

"(2) DEADLINE FOR ACTION.—The Commission shall act to approve or disapprove a waiver application within 180 days after the date it is filed.

"(3) CONTINUED APPLICABILITY OF SECTION 659.—In the case of a common carrier that obtains a waiver under this subsection, any requirement that section 659 applies to a video programming affiliate shall instead apply to such carrier.

"SEC. 653. ESTABLISHMENT OF VIDEO PLATFORM.

"(a) COMMON CARRIER OBLIGATIONS.—

"(1) IN GENERAL.—Any common carrier subject to title II of this Act, and that provides video programming directly or indirectly to subscribers in its telephone service area, shall establish a video platform.

"(2) IDENTIFICATION OF DEMAND FOR CARRIAGE.—Any common carrier subject to the requirements of paragraph (1) shall, prior to establishing a video platform, submit a notice to the Commission of its intention to establish channel capacity for the provision of video programming to meet the bona fide demand for such capacity. Such notice shall—

"(A) be in such form and contain such information as the Commission may require by regulations pursuant to subsection (b);

"(B) specify the methods by which any entity seeking to use such channel capacity should submit to such carrier a specification of its channel capacity requirements; and

"(C) specify the procedures by which such carrier will determine (in accordance with the Commission's regulations under subsection (b)(1)(B)) whether such request for capacity are bona fide.

The Commission shall submit any such notice for publication in the Federal Register within 5 working days.

"(3) RESPONSE TO REQUEST FOR CARRIAGE.—After receiving and reviewing the requests for capacity submitted pursuant to such notice, such common carrier shall, subject to approval of a certificate under section 214, establish channel capacity that is sufficient to provide carriage for—

"(A) all bona fide requests submitted pursuant to such notice,

"(B) any additional channels required pursuant to section 659, and

"(C) any additional channels required by the Commission's regulations under subsection (b)(1)(C).

"(4) RESPONSES TO CHANGES IN DEMAND FOR CAPACITY.—Any common carrier that establishes a video platform under this section shall—

"(A) immediately notify the Commission and each video programming provider of any

delay in or denial of channel capacity or service, and the reasons therefor;

"(B) continue to receive and grant, to the extent of available capacity, carriage in response to bona fide requests for carriage from existing or additional video programming providers;

"(C) if at any time the number of channels required for bona fide requests for carriage may reasonably be expected soon to exceed the existing capacity of such video platform, immediately notify the Commission of such expectation and of the manner and date by which such carrier will provide sufficient capacity to meet such excess demand; and

"(D) construct, subject to approval of a certificate under section 214, such additional capacity as may be necessary to meet such excess demand.

"(5) DISPUTE RESOLUTION.—The Commission shall have the authority to resolve disputes under this section and the regulations prescribed thereunder. Any such dispute shall be resolved within 180 days after notice of such dispute is submitted to the Commission. At that time or subsequently in a separate damages proceeding, the Commission may award damages sustained in consequence of any violation of this section to any person denied carriage, or require carriage, or both. Any aggrieved party may seek any other remedy available under this Act.

"(b) COMMISSION REGULATIONS.—

"(1) IN GENERAL.—Within one year after the date of the enactment of this section, the Commission shall prescribe regulations that—

"(A) consistent with the requirements of section 659, prohibit a common carrier from discriminating among video programming providers with regard to carriage on its video platform, and ensure that the rates, terms, and conditions for such carriage are just, reasonable, and nondiscriminatory;

"(B) prescribe definitions and criteria for the purposes of determining whether a request shall be considered a bona fide request for purposes of this section;

"(C) establish a requirement that video platforms contain a suitable margin of unused channel capacity to meet reasonable growth in bona fide demand for such capacity;

"(D) extend to video platforms the Commission's regulations concerning network nonduplication (47 C.F.R. 76.92 et seq.) and syndicated exclusivity (47 C.F.R. 76.151 et seq.);

"(E) require the video platform to provide service, transmission, interconnection, and interoperability for unaffiliated or independent video programming providers that is equivalent to that provided to the common carrier's video programming affiliate;

"(F)(i) prohibit a common carrier from discriminating among video programming providers with regard to material or information provided by the common carrier to subscribers for the purposes of selecting programming on the video platform, or in the way such material or information is presented to subscribers;

"(ii) require a common carrier to ensure that video programming providers or copyright holders (or both) are able suitably and uniquely to identify their programming services to subscribers; and

"(iii) if such identification is transmitted as part of the programming signal, require the carrier to transmit such identification without change or alteration; and

"(G) prohibit a common carrier from excluding areas from its video platform service area on the basis of the ethnicity, race, or

income of the residents of that area, and provide for public comments on the adequacy of the proposed service area on the basis of the standards set forth under this subparagraph.

"(2) EXTENSION OF REGULATIONS TO OTHER HIGH CAPACITY SYSTEMS.—The Commission shall extend the requirements of the regulations prescribed pursuant to this section, in lieu of the requirements of section 612, to any cable operator of a cable system that has installed a switched, broadband video programming delivery system, except that the Commission shall not extend the requirements of the regulations prescribed pursuant to subsection (b)(1)(D) or any other requirement that the Commission determines is clearly inappropriate.

"(c) COMMISSION INQUIRY.—The Commission shall conduct a study of whether it is in the public interest to extend the requirements of subsection (a) to any other cable operators in lieu of the requirements of section 612. The Commission shall submit to the Congress a report on the results of such study not later than 2 years after the date of enactment of this section.

"SEC. 654. EQUAL ACCESS COMPLIANCE.

"(a) CERTIFICATION REQUIRED.—

"(1) IN GENERAL.—A common carrier subject to title II of this Act shall not provide video programming directly to subscribers in its telephone service area unless such carrier has certified to the Commission that such carrier is in compliance with the requirements of paragraphs (1) and (2) of section 201(c) of this Act, and regulations prescribed pursuant to such paragraphs.

"(2) EXCEPTION.—Notwithstanding paragraph (1), a common carrier subject to title II of this Act may provide video programming directly to subscribers in its telephone service area during any period prior to the date the Commission first prescribes final regulations pursuant to paragraphs (1) and (2) of section 201(c) of this Act if such carrier has certified to the Commission that such carrier is in compliance with State laws and regulations concerning equal access, interconnection, and unbundling that are substantially similar to and fully consistent with the requirements of such paragraphs or if there is no statutory prohibition against such carrier providing video programming directly to subscribers in its telephone service area on the date of enactment of this section. A common carrier that is permitted to provide video programming under this paragraph prior to the effective date of such regulations shall not be exempt from the requirements of paragraph (1) after the effective date of such final regulations.

"(b) CERTIFICATION AND APPLICATION APPROVAL.—A common carrier that submits a certification under paragraph (1) or (2) of subsection (a) shall be eligible to provide video programming to subscribers in accordance with the requirements of this part, subject to the approval of any necessary application under section 214 for authority to establish a video platform. An application under section 214 may be filed simultaneously with the filing of such certification or at any time after the date of enactment of this section, and the Commission shall act to approve (with or without modification) or reject such application within 180 days after the date of its submission. If the Commission acts to approve such an application prior to the filing of such certification, such approval shall not be effective until such certification is filed.

"SEC. 655. PROHIBITION OF CROSS-SUBSIDIZATION.

"(a) CROSS SUBSIDIES PROHIBITION.—The Commission shall—

"(1) prescribe regulations to prohibit a common carrier from engaging in any practice that results in the inclusion in rates for telephone exchange service or telephone exchange access service of any operating expenses, costs, depreciation charges, capital investments, or other expenses directly associated with the provision of competing video programming services by the common carrier or affiliate; and

"(2) ensure such competing video programming services bear a reasonable share of the joint and common costs of facilities used to provide telephone exchange service or telephone exchange access service and competing video programming services.

"(b) CABLE OPERATOR PROHIBITIONS.—The Commission shall prescribe regulations to prohibit a cable operator from engaging in any practice that results in improper cross-subsidization between its regulated cable operations and its provision of telecommunications service, either directly or through an affiliate.

"SEC. 656. PROHIBITION ON BUYOUTS.

"(a) GENERAL PROHIBITION.—No common carrier that provides telephone exchange service, and no entity owned by or under common ownership or control with such carrier, may purchase or otherwise obtain control over any cable system that is located within its telephone service area and is owned by an unaffiliated person.

"(b) EXCEPTIONS.—Notwithstanding subsection (a), a common carrier may—

"(1) obtain a controlling interest in, or form a joint venture or other partnership with, a cable system that serves a rural area;

"(2) obtain, in addition to any interest, joint venture, or partnership obtained or formed pursuant to paragraph (1), a controlling interest in, or form a joint venture or other partnership with, any cable system or systems if—

"(A) such systems in the aggregate serve less than 10 percent of the households in the telephone service area of such carrier; and

"(B) no such system serves a franchise area with more than 35,000 inhabitants, except that a common carrier may obtain such interest or form such joint venture or other partnership with a cable system that serves a franchise area with more than 35,000 but not more than 50,000 inhabitants if such system is not affiliated (as such term is defined in section 602) with any other system whose franchise area is contiguous to the franchise area of the acquired system;

"(3) obtain, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that part of the transmission facilities of such a cable system extending from the last multi-user terminal to the premises of the end user, if such use is reasonably limited in scope and duration, as determined by the Commission; or

"(4) obtain a controlling interest in, or form a joint venture or other partnership with, or provide financing to, a cable system (hereinafter in this paragraph referred to as 'the subject cable system'), if—

"(A) the subject cable system operates in a television market that is not in the top 25 markets, and that has more than 1 cable system operator, and the subject cable system is not the largest cable system in such television market;

"(B) the subject cable system and the largest cable system in such television market held on March 1, 1994, cable television franchises from the largest municipality in the television market and the boundaries of such franchises were identical on such date;

"(C) the subject cable system is not owned by or under common ownership or control of

any one of the 50 largest cable system operators as existed on March 1, 1994; and

"(D) the largest system in the television market is owned by or under common ownership or control of any one of the 10 largest cable system operators as existed on March 1, 1994.

"(c) WAIVER.—

"(1) CRITERIA FOR WAIVER.—The Commission may waive the restrictions in subsection (a) of this section only upon a showing by the applicant that—

"(A) because of the nature of the market served by the cable system concerned—

"(i) the incumbent cable operator would be subjected to undue economic distress by the enforcement of such subsection; or

"(ii) the cable system would not be economically viable if such subsection were enforced; and

"(B) the local franchising authority approves of such waiver.

"(2) DEADLINE FOR ACTION.—The Commission shall act to approve or disapprove a waiver application within 180 days after the date it is filed.

"SEC. 657. PENALTIES.

"If the Commission finds that any common carrier has knowingly violated any provision of this part, the Commission shall assess such fines and penalties as it deems appropriate pursuant to this Act.

"SEC. 658. CONSUMER PROTECTION.

"(a) JOINT BOARD REQUIRED.—Within 30 days after the date of enactment of this part, the Commission shall convene a Federal-State Joint Board under the provisions of section 410(c) for the purpose of recommending a decision concerning the practices, classifications, and regulations as may be necessary to ensure proper jurisdictional separation and allocation of the costs of establishing and providing a video platform. The Board shall issue its recommendations to the Commission within 270 days after the date of enactment of this part.

"(b) COMMISSION REGULATIONS REQUIRED.—The Commission, with respect to interstate switched access service, and the States, with respect to telephone exchange service and intrastate interexchange service, shall establish such regulations as may be necessary to implement section 655 within one year after the date of the enactment of this part.

"(c) NO EFFECT ON CARRIER REGULATION AUTHORITY.—Nothing in this section shall be construed to limit or supersede the authority of any State or the Commission with respect to the allocation of costs associated with intrastate or interstate communication services.

"SEC. 659. APPLICABILITY OF FRANCHISE AND OTHER REQUIREMENTS.

"(a) IN GENERAL.—Any provision that applies to a cable operator under—

"(1) sections 613, 616, 617, 628, 631, 632, and 634 of this title, shall apply,

"(2) sections 611, 612, 614, and 615 of this title, and section 325 of title III, shall apply in accordance with the regulations prescribed under subsection (b), and

"(3) parts III and IV (other than sections 628, 631, 632, and 634) of this title shall not apply,

to any video programming affiliate established by a common carrier in accordance with the requirements of this part.

"(b) IMPLEMENTATION OF REQUIREMENTS.—

"(1) REGULATIONS.—The Commission shall prescribe regulations to ensure that a video programming affiliate of a common carrier shall provide (A) capacity, services, facilities, and equipment for public, educational, and governmental use, (B) capacity for com-

mercial use, (C) carriage of commercial and non-commercial broadcast television stations, and (D) an opportunity for commercial broadcast stations to choose between mandatory carriage and reimbursement for retransmission of the signal of such station. In prescribing such regulations, the Commission shall, to the extent possible, impose obligations that are no greater or lesser than the obligations contained in the provisions described in subsection (a)(2) of this section. Such regulations shall also require that, if a common carrier establishes a video platform but does not provide or ceases to provide video programming through a video programming affiliate, such carrier shall comply with the regulations prescribed under this paragraph and with the provisions described in subsection (a)(1) in the operation of its video platform.

"(2) FEES.—A video programming affiliate of any common carrier that establishes a video platform under this part, and any multichannel video programming distributor offering a competing service using such video platform (as determined in accordance with regulations of the Commission), shall be subject to the payment of fees imposed by a local franchising authority, in lieu of the fees required under section 622. The rate at which such fees are imposed shall not exceed the rate at which franchise fees are imposed on any cable operator transmitting video programming in the same service area.

"SEC. 660. RURAL AREA EXEMPTION.

"The provisions of sections 652, 653, 654, and 656 shall not apply to video programming provided in a rural area by a common carrier that provides telephone exchange service in the same area."

SEC. 202. REVIEW OF BROADCASTERS' OWNERSHIP RESTRICTIONS.

Within one year after the date of enactment of this Act, the Commission shall, after a notice and comment proceeding, prescribe regulations to modify, maintain, or remove the ownership regulations on radio and television broadcasters as necessary to ensure that broadcasters are able to compete fairly with other information providers while protecting the goals of diversity and localism.

SEC. 203. REVIEW OF STATUTORY OWNERSHIP RESTRICTION.

Within one year after the date of enactment of this Act, the Commission shall review the ownership restriction in section 613(a)(1) of the Communications Act of 1934 (47 U.S.C. 553(a)(1)) and report to Congress whether or not such restriction continues to serve the public interest.

SEC. 204. BROADCASTER SPECTRUM FLEXIBILITY.

(a) REGULATIONS REQUIRED.—If the Commission determines to issue additional licenses for advanced television services, and initially limits the eligibility for such licenses to persons that, as of the date of such issuance, are licensed to operate a television broadcast station or hold a permit to construct such a station (or both), the Commission shall adopt regulations that allow such licensees or permittees to offer such ancillary or supplementary services on designated frequencies as may be consistent with the public interest, convenience, and necessity.

(b) CONTENTS OF REGULATIONS.—In prescribing the regulations required by subsection (a), the Commission shall—

(1) only permit such licensee or permittee to offer ancillary or supplementary services if the use of a designated frequency for such services is indivisible from the use of such designated frequency for the provision of advanced television services;

(2) limit the broadcasting of ancillary or supplementary services on designated frequencies so as to avoid derogation of any advanced television services, including high definition television broadcasts, that the Commission may require using such frequencies;

(3) treat any such ancillary or supplementary services for which the licensee or permittee solicits and receives compensation in return for transmitting commercial advertising as broadcast services for the purposes of the Communications Act of 1934 and the Children's Television Act of 1990 (47 U.S.C. 303a), and the Commission's regulations thereunder, including regulations promulgated pursuant to section 315 of the Communications Act of 1934 (47 U.S.C. 315);

(4) apply to any other ancillary or supplementary service such of the Commission's regulations as are applicable to the offering of analogous services by any other person;

(5) adopt such technical and other requirements as may be necessary or appropriate to assure the quality of the signal used to provide advanced television services, including regulations that stipulate the minimum number of hours per day that such signal must be transmitted; and

(6) prescribe such other regulations as may be necessary for the protection of the public interest, convenience, and necessity.

(c) RECOVERY OF LICENSE.—

(1) CONDITIONS REQUIRED.—If the Commission limits the eligibility for licenses to provide advanced television services in the manner described in subsection (a), the Commission shall, as a condition of such license, require that, upon a determination by the Commission pursuant to the regulations prescribed under paragraph (2), either the additional license or the original license held by the licensee be surrendered to the Commission in accordance with such regulations for reallocation or reassignment (or both) pursuant to Commission regulation.

(2) REGULATIONS.—The Commission shall prescribe regulations establishing criteria for rendering determinations concerning license surrender pursuant to license conditions required by paragraph (1). Such regulations shall—

(A) require such determinations to be based on whether the substantial majority of the public have obtained television receivers that are capable of receiving advanced television services; and

(B) not require the cessation of the broadcasting if such cessation would render the television receivers of a substantial portion of the public useless, or otherwise cause undue burdens on the owners of such television receivers.

(d) FEES REQUIRED.—

(1) SERVICES TO WHICH FEES APPLY.—If the regulations prescribed pursuant to subsection (a) permit a licensee to offer ancillary or supplementary services on a designated frequency—

(A) for which the payment of a subscription fee is required in order to receive such services, or

(B) for which the licensee directly or indirectly receives compensation from a third party in return for transmitting material furnished by such third party (other than commercial advertisements used to support broadcasting for which a subscription fee is not required),

the Commission shall establish by regulation a program to assess and collect an annual fee or royalty payment.

(2) CRITERIA FOR REGULATIONS.—The regulations required by paragraph (1) shall—

(A) be designed (i) to recover for the public a portion of the value of the public spectrum resource made available for such commercial use, and (ii) to avoid unjust enrichment through the method employed to permit such uses of that resource;

(B) recover for the public an amount that is, to maximum extent feasible, equal (over the term of the license) to the amount that would have been recovered had such services been licensed pursuant to the provisions of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) and the Commission's regulations thereunder; and

(C) be adjusted by the Commission from time to time in order to continue to comply with the requirements of this paragraph.

(3) TREATMENT OF REVENUES.—

(A) GENERAL RULE.—Except as provided in subparagraph (B), all proceeds obtained pursuant to the regulations required by this subsection shall be deposited in the Treasury in accordance with chapter 33 of title 31, United States Code.

(B) RETENTION OF REVENUES.—Notwithstanding subparagraph (A), the salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by this section and regulating and supervising advanced television services. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis.

(4) REPORT.—Within 5 years after the date of the enactment of this section, the Commission shall report to the Congress on the implementation of the program required by this subsection, and shall annually thereafter advise the Congress on the amounts collected pursuant to such program.

(e) EVALUATION REQUIRED.—Within 10 years after the date the Commission first issues additional licenses for advanced television services, the Commission shall conduct an evaluation of the advanced television services program. Such evaluation shall include—

(1) an assessment of the willingness of consumers to purchase the television receivers necessary to receive broadcasts of advanced television services;

(2) an assessment of alternative uses, including public safety use, of the frequencies used for such broadcasts; and

(3) the extent to which the Commission has been or will be able to reduce the amount of spectrum assigned to licensees in order to issue additional licenses for the provision of advanced television services.

(f) DEFINITIONS.—As used in this section:

(1) ADVANCED TELEVISION SERVICES.—The term "advanced television services" means television services provided using digital or other advanced technology to enhance audio quality and video resolution, as further defined in the opinion, report, and order of the Commission entitled "Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service", MM Docket 87-268, adopted September 17, 1992, and successor proceedings.

(2) DESIGNATED FREQUENCIES.—The term "designated frequency" means each of the frequencies designated by the Commission for licenses for advanced television services.

(3) HIGH DEFINITION TELEVISION.—The term "high definition television" refers to systems that offer approximately twice the vertical and horizontal resolution of receivers generally available on the date of enactment

of this section, as further defined in the proceedings described in paragraph (1) of this subsection.

SEC. 205. INTERACTIVE SERVICES AND CRITICAL INTERFACES.

(a) FINDINGS.—The Congress finds that—

(1) the convergence of communications, computing, and video technologies will permit improvements in interoperability between and among those technologies;

(2) in the public switched telecommunications network, open protocols and technical requirements for connection between the network and the consumer, and the availability of unbundled customer equipment through retailers and other third party vendors, have served to broaden consumer choice, lower prices, and spur competition and innovation in the customer equipment industry;

(3) set-top boxes and other interactive communications devices could similarly serve as a critical gateway between American homes and businesses and advanced telecommunications and video programming networks;

(4) American consumers have benefited from the ability to own or rent customer premises equipment obtained from retailers and other vendors and the ability to access the network with portable, compatible equipment;

(5) in order to promote diversity, competition, and technological innovation among suppliers of equipment and services, it may be necessary to make certain critical interfaces with such networks open and accessible to a broad range of equipment manufacturers and information providers;

(6) the identification of critical interfaces with such networks and the assessment of their openness must be accomplished with due recognition that open and accessible systems may include standards that involve both nonproprietary and proprietary technologies;

(7) such identification and assessment must also be accomplished with due recognition of the need for owners and distributors of video programming and information services to ensure system and signal security and to prevent theft of service;

(8) whenever possible, standards in dynamic industries such as interactive systems are best set by the marketplace or by private sector standard-setting bodies; and

(9) the role of the Commission in this regard is—

(A) to identify, in consultation with industry groups, consumer interests, and independent experts, critical interfaces with such networks (i) to ensure that end users can connect information devices to such networks, and (ii) to ensure that information service providers are able to transmit information to end users, and

(B) as necessary, to take steps to ensure these networks and services are accessible to a broad range of equipment manufacturers, information providers, and program suppliers.

(b) INQUIRY REQUIRED.—Within 6 months after the date of the enactment of this Act, the Commission shall commence an inquiry—

(1) to examine the impact of the convergence of technologies on cable, telephone, satellite, and wireless and other communications technologies likely to offer interactive communications services;

(2) to ascertain the importance of maintaining open and accessible systems in interactive communications services;

(3) to examine the costs and benefits of maintaining varying levels of interoper-

ability between and among interactive communications services;

(4) to examine the costs and benefits of establishing open interfaces (A) between the network provider and the set-top box or other interactive communications devices used in the home or office, and (B) between network providers and information service providers, and to determine how best to establish such interfaces;

(5) to determine methods by which converter boxes or other interactive communications devices may be sold through retailers and other third party vendors and to determine the vendors' responsibilities for ensuring that their devices are interoperable with interactive networks;

(6) to assess how the security of cable, satellite, and other interactive systems or their services can continue to be ensured with the establishment of an interface between the network and a converter box or other interactive communications device, including those manufactured and distributed at retail by entities independent of network providers and information service providers, and to determine the responsibilities of such independent entities for assuring network security and for conforming to signal interference standards;

(7) to ascertain the conditions necessary to ensure that any critical interface is available to information and content providers and others who seek to design, build, and distribute interoperable devices for these networks so as to ensure network access and fair competition for independent information providers and consumers;

(8) to assess the impact of the deployment of digital technologies on individuals with disabilities, with particular emphasis on any regulatory, policy, or design barriers which would limit functionally equivalent access by such individuals;

(9) to assess current regulation of telephone, cable, satellite, and other communications delivery systems to ascertain how best to ensure interoperability between those systems;

(10) to assess the adequacy of current regulation of telephone, cable, satellite, and other communications delivery systems with respect to bundling of equipment and services and to identify any changes in unbundling regulations necessary to assure effective competition and encourage technological innovation, consistent with the finding in subsection (a)(6) and the objectives of paragraph (6) of this subsection, in the market for converter boxes or interactive communications devices and for other customer premises equipment;

(11) to solicit comment on any changes in the Commission's regulations that are necessary to ensure that diversity, competition, and technological innovation are promoted in communications services and equipment; and

(12) to prepare recommendations to the Congress for any legislative changes required.

(c) REPORT TO CONGRESS.—Within 12 months after the date of the enactment of this Act, the Commission shall submit to the Congress a report on the results of the inquiry required by subsection (b). Within 6 months after the date of submission of such report, the Commission shall prescribe such changes in its regulations as the Commission determines are necessary pursuant to subsection (b)(10).

(d) PRESERVATION OF EXISTING AUTHORITY.—Nothing in this section shall be construed as limiting, superseding, or otherwise

modifying the existing authority and responsibilities of the Commission or National Institute of Standards and Technology.

SEC. 206. VIDEO PROGRAMMING ACCESSIBILITY.

(a) **INQUIRY REQUIRED.**—Within 180 days after the date of enactment of this section, the Federal Communications Commission shall complete an inquiry to ascertain the level at which video programming is closed captioned. Such inquiry shall examine the extent to which existing or previously published programming is closed captioned, the size of the video programming provider or programming owner providing closed captioning, the size of the market served, the relative audience shares achieved, or any other related factors. The Commission shall submit to the Congress a report on the results of such inquiry.

(b) **CONTENTS OF REGULATIONS.**—Within 18 months after the date of enactment, the Commission shall prescribe such regulations as are necessary to implement this section. Such regulations shall ensure that—

(1) video programming first published or exhibited after the effective date of such regulations is fully accessible through the provision of closed captions, except as provided in subsection (d); and

(2) video programming providers or owners maximize the accessibility of video programming first published or exhibited prior to the effective date of such regulations through the provision of closed captions, except as provided in subsection (d).

(c) **CONTENTS OF REGULATIONS.**—Such regulations shall include an appropriate schedule of deadlines for the provision of closed captioning of video programming.

(d) **EXEMPTIONS.**—Notwithstanding subsection (b)—

(1) the Commission may exempt by regulation programs, classes of programs, or services for which the Commission has determined that the provision of close captioning would be economically burdensome to the provider or owner of such programming;

(2) a provider of video programming or the owner of any program carried by the provider shall not be obligated to supply closed captions if such action would be inconsistent with contracts in effect on the date of enactment of this Act, except that nothing in this section shall be construed to relieve a video programming provider of its obligations to provide services required by Federal law; and

(3) a provider of video programming or program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such petition upon a showing that the requirements contained in this section would result in an undue burden.

(e) **UNDUE BURDEN.**—The term 'undue burden' means significant difficulty or expense. In determining whether the closed captions necessary to comply with the requirements of this paragraph would result in an undue economic burden, the factors to be considered include—

(1) the nature and cost of the closed captions for the programming;

(2) the impact on the operation of the provider or program owner;

(3) the financial resources of the provider or program owner; and

(4) the type of operations of the provider or program owner.

(f) **ADDITIONAL PROCEEDING ON VIDEO DESCRIPTIONS REQUIRED.**—Within 6 months after the date of enactment of this Act, the Commission shall commence an inquiry to examine the use of video descriptions on video programming in order to ensure the ac-

cessibility of video programming to persons with visual impairments, and report to Congress on its findings. The Commission's report shall assess appropriate methods and schedules for phasing video descriptions into the marketplace, technical and quality standards for video descriptions, a definition of programming for which video descriptions would apply, and other technical and legal issues that the Commission deems appropriate. Following the completion of such inquiry, the Commission may adopt regulation it deems necessary to promote the accessibility of video programming to persons with visual impairments.

(g) **MODEL PROGRAM.**—The National Telecommunications and Information Administration shall establish and oversee, and (to the extent of available funds) provide financial support for, marketplace tests of video descriptions on commercial and noncommercial video programming services.

(h) **VIDEO DESCRIPTION.**—For purposes of this section, "video description" means the insertion of audio narrated descriptions of a television program's key visual elements into natural pauses between the program's dialogue.

SEC. 207. PUBLIC ACCESS.

Within one year after the date of enactment of this Act, the Federal Communications Commission shall prescribe regulations to reserve appropriate capacity for the public at preferential rates on cable systems and video platforms.

SEC. 208. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

Notwithstanding any provision of the Communications Act of 1934, a ship documented under the laws of the United States operating in accordance with the Global Maritime Distress and Safety System provisions of the Safety of Life at Sea Convention shall not be required to be equipped with a radio station operated by one or more radio officers or operators.

SEC. 209. EXCLUSIVE FEDERAL JURISDICTION OVER DIRECT BROADCAST SATELLITE SERVICE.

Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following new subsection:

"(v) Have exclusive jurisdiction over the regulation of the direct broadcast satellite service."

SEC. 210. TECHNICAL AMENDMENTS.

(a) **RETRANSMISSION.**—Section 325(b)(2)(D) of the Communications Act of 1934 (47 U.S.C. 325(b)(2)(D)) is amended to read as follows:

"(D) retransmission by a cable operator or other multichannel video programming distributor of the signal of a superstation if (i) the customers served by the cable operator or other multichannel video programming distributor reside outside the originating station's television market, as defined by the Commission for purposes of section 614(h)(1)(C); (ii) such signal was obtained from a satellite carrier or terrestrial microwave common carrier; and (iii) the origination station was a superstation on May 1, 1991.

(b) **MARKET DETERMINATIONS.**—Section 614(h)(1)(C)(i) of the Communications Act of 1934 (47 U.S.C. 614(h)(1)(C)(i)) is amended by striking out "in the manner provided in section 73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991," and inserting "by the Commission by regulation or order using, where available, commercial publications which delineate television markets based on viewing patterns,".

SEC. 211. AVAILABILITY OF SCREENING DEVICES TO PRECLUDE DISPLAY OF ENCRYPTED PROGRAMMING.

(a) **CUSTOMER NOTICE.**—Section 624(d)(2)(A) of the Communications Act of 1934 (47 U.S.C. 644(d)(2)(A)) is amended by adding at the end the following new sentence: "Upon beginning service to any new subscriber and not less frequently than once each calendar year for current subscribers, the cable operator shall inform subscribers of the right to request and obtain such device."

(b) **SIGNAL LEAKAGE.**—Section 624(d)(2) of such Act is further amended by adding at the end the following new subparagraph:

"(C) The Commission shall prescribe regulations to require, to the extent technically feasible, the transmission of programming described in subparagraph (A) by means of encrypted signals that permit subscribers to effectively and entirely prevent the display of both the audio and video portions of such programming with or without the use of a device described in subparagraph (A)."

TITLE III—PROCUREMENT PRACTICES OF TELECOMMUNICATIONS PROVIDERS

SEC. 301. FINDINGS.

The Congress finds the following:

(1) It is in the public interest for business enterprises owned by minorities and women to participate in procurement contracts of all providers of telecommunications services.

(2) The opportunity for full participation in our free enterprise system by business enterprises that are owned by minorities and women is essential if this Nation is to attain social and economic equality for those businesses and improve the functioning of the national economy.

(3) It is in this Nation's interest to expeditiously improve the economically disadvantaged position of business enterprises that are owned by minorities and women.

(4) The position of these businesses can be improved through the development by the providers of telecommunications services of substantial long-range and annual goals, which are supported by training and technical assistance, for the purchase, to the maximum practicable extent, of technology, equipment, supplies, services, material and construction from minority business enterprises.

(5) Procurement policies which include participation of business enterprises that are owned by minorities and women also benefit the communication industry and its consumers by encouraging the expansion of the numbers of suppliers for procurement, thereby encouraging competition among suppliers and promoting economic efficiency in the process.

SEC. 302. PURPOSE.

The purposes of this title are—

(1) to encourage and foster greater economic opportunity for business enterprises that are owned by minorities and women;

(2) to promote competition among suppliers to providers of telecommunications services and their affiliates to enhance economic efficiency in the procurement of telephone corporation contracts and contracts of their State commission-regulated subsidiaries and affiliates;

(3) to clarify and expand a program for the procurement by State and federally-regulated telephone companies of technology, equipment, supplies, services, materials and construction work from business enterprises that are owned by minorities and women; and

(4) to ensure that a fair proportion of the total purchases, contracts, and subcontracts for supplies, commodities, technology, property, and services offered by the providers of

telecommunications services and their affiliates are awarded to minority and women business enterprises.

SEC. 303. ANNUAL PLAN SUBMISSION.

(a) ANNUAL PLANS REQUIRED.—

(1) IN GENERAL.—The Commission shall require each provider of telecommunications services to submit annually a detailed and verifiable plan for increasing its procurement from business enterprises that are owned by minorities or women in all categories of procurement in which minorities are under represented.

(2) CONTENTS OF PLANS.—The annual plans required by paragraph (1) shall include (but not be limited to) short- and long-term progressive goals and timetables, technical assistance, and training and shall, in addition to goals for direct contracting opportunities, include methods for encouraging both prime contractors and grantees to engage business enterprises that are owned by minorities and women in subcontracts in all categories in which minorities are under represented.

(3) IMPLEMENTATION REPORT.—Each provider of telecommunications services shall furnish an annual report to the Commission regarding the implementation of programs established pursuant to this title in such form as the Commission shall require, and at such time as the Commission shall annually designate.

(4) REPORT TO CONGRESS.—The Commission shall provide an annual report to Congress, beginning in January 1995, on the progress of activities undertaken by each provider of telecommunications services regarding the implementation of activities pursuant to this title to develop business enterprises that are owned by minorities or women. The report shall evaluate the accomplishments under this title and shall recommend a program for enhancing the policy declared in this title, together with such recommendations for legislation as it deems necessary or desirable to further that policy.

(b) REGULATIONS AND CRITERIA FOR DETERMINING ELIGIBILITY OF MINORITY BUSINESS ENTERPRISES FOR PROCUREMENT CONTRACTS.—

(1) IN GENERAL.—The Commission shall establish regulations for implementing programs pursuant to this title that will govern providers of telecommunications services and their affiliates.

(2) VERIFYING CRITERIA.—The Commission shall develop and publish regulations setting forth criteria for verifying and determining the eligibility of business enterprises that are owned by minorities or women for procurement contracts.

(3) OUTREACH.—The Commission's regulations shall require each provider of telecommunications services and its affiliates to develop and to implement an outreach program to inform and recruit business enterprises that are owned by minorities or women to apply for procurement contracts under this title.

(4) ENFORCEMENT.—The Commission shall establish and promulgate such regulations necessary to enforce the provisions of this title.

(c) WAIVER AUTHORITY.—The requirements of this section may be waived, in whole or in part, by the Commission with respect to a particular contract or subcontract in accordance with guidelines set forth in regulations which the Commission shall prescribe when it determines that the application of such regulations prove to result in undue hardship or unreasonable expense to a provider of telecommunications services.

SEC. 304. SANCTIONS AND REMEDIES.

(a) FALSE REPRESENTATION OF BUSINESSES; SANCTIONS.—

(1) IN GENERAL.—Any person or corporation, through its directors, officers, or agent, which falsely represents the business as a business enterprise that are owned by minorities or women in the procurement or attempt to procure contracts from telephone operating companies and their affiliates pursuant to this article, shall be punished by a fine of not more than \$5,000, or by imprisonment for a period not to exceed 5 years of its directors, officers, or agents responsible for the false statements, or by both fine and imprisonment.

(2) HOLDING COMPANIES.—Any provider of telecommunications services which falsely represents its annual report to the Commission or its implementation of its programs pursuant to this section shall be subject to a fine of \$100,000 and be subject to a penalty of up to 5 years restriction from participation in lines of business activities provided for in this title.

(b) INDEPENDENT CAUSE OF ACTION, REMEDIES, AND ATTORNEY FEES.—

(1) DISCRIMINATION PROHIBITED.—No otherwise qualified business enterprise that are owned by minorities or women shall solely, by reason of its racial, ethnic, or gender composition be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in procuring contracts from telephone utilities.

(2) CIVIL ACTIONS AUTHORIZED.—Whenever a qualified business enterprise that is owned by minorities or women has reasonable cause to believe that a provider of telecommunications services or its affiliate is engaged in a pattern or practice of resistance to the full compliance of any provision of this title, the business enterprise may bring a civil action in the appropriate district court of the United States against the provider of telecommunications services or its affiliate requesting such monetary or injunctive relief, or both, as deemed necessary to ensure the full benefits of this title.

(3) ATTORNEYS' FEES AND COSTS.—In any action or proceeding to enforce or charge of a violation of a provision of this title, the court, in its discretion, may allow the prevailing party reasonable attorneys' fees and costs.

SEC. 305. DEFINITIONS.

For the purpose of this title, the following definitions apply:

(1) The term "business enterprise owned by minorities or women" means—

(A) a business enterprise that is at least 51 percent owned by a person or persons who are minority persons or women; or

(B) in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more persons who are minority persons or women, and whose management and daily business operations are controlled by one or more of those persons.

(2) The term "minority person" means persons who are Black Americans, Hispanic Americans, Native Americans, Asian Americans, and Pacific Americans.

(3) The term "control" means exercising the power to make financial and policy decisions.

(4) The term "operate" means the active involvement in the day-to-day management of the business and not merely being officers or directors.

(5) The term "Commission" means the Federal Communications Commission.

(6) The term "telecommunications service" has the meaning provided in section

3(mm) of the Communications Act of 1934 (as added by this Act).

TITLE IV—FEDERAL COMMUNICATIONS COMMISSION RESOURCES

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to any other sums authorized by law, there are authorized to be appropriated to the Federal Communications Commission such sums as may be necessary to carry out this Act and the amendments made by this Act.

(b) EFFECT ON FEES.—For purposes of section 9(b)(2) of the Communications Act of 1934 (47 U.S.C. 159(b)(2)), additional amounts appropriated pursuant to subsection (a) shall be construed to be changes in the amounts appropriated for the performance of activities described in section 9(a) of such Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Massachusetts [Mr. MARKEY] will be recognized for 20 minutes, and the gentleman from Texas [Mr. FIELDS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. MARKEY].

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

Mr. Speaker, today, I rise to bring before the House a bill that represents what I believe to be the Nation's roadmap for the information superhighway.

The purpose of this bill is to help consumers by promoting a national communications and information infrastructure. This legislation seeks to accomplish that goal by encouraging the deployment of advanced communications services and technologies through competition, by safeguarding ratepayers and competitors from potential anticompetitive abuses, and by preserving and enhancing universal service.

This bill has three key components. First, the bill will preserve and enhance the goal of providing to all Americans high-quality phone service at just and reasonable rates. This goal of universal service is one of the proudest achievements of our Nation during the 20th century, and this legislation will ensure it endures beyond the year 2000.

Second, the legislation will promote and accelerate competition to the cable television industry by permitting telephone companies to compete in offering video programming. Specifically, the bill would rescind the statutory ban on telephone company ownership and delivery of video programming. Telephone companies would be permitted, through a separate subsidiary, to provide video programming to their subscribers so long as they establish an open system to permit others to use their video platforms. But they must enter the business the old fashion way: by building a new system and not just buying up an existing system.

Third, the legislation will promote competition in the local telephone market. This market is one of the last monopoly markets in the entire telecommunications universe. We all have

witnessed how the long-distance market and the telecommunications equipment market has benefited tremendously from competition. Just 10 years ago, you had one choice in long distance—AT&T—and one choice for a phone—black rotary dial. Through Federal policies, hundreds of equipment makers and long distance companies now exist, proving rigorous competition. We can see those same benefits in the local telephone market, and they benefit consumers by giving them more choice at lower prices.

The bill before the House reflects a handful of changes that have been made to the bill to reflect a number of minor issues that have been raised. At this time I ask unanimous consent that a joint statement explaining these changes appear in the RECORD after my remarks.

In conclusion, this legislation has benefited tremendously from the close working relationship among all the members of the Committee on Energy and Commerce. We have succeeded, I believe, in crafting a bill that addresses many of the tough issues and strikes a fair balance on a number of difficult issues.

I strongly urge all Members to support this bill.

JOINT EXPLANATION OF H.R. 3636

The bill considered by the House today contains several changes that address issues brought to the attention of the Members since the bill was reported out of committee. We want to take this opportunity to explain those changes.

Section 201(c)(3)(B) also has been altered to make certain that States can adopt provisions relating to the public safety and welfare and for other reasons enumerated in clauses (i)–(iv), if such term or conditions does not effectively prohibit any person or carrier from providing a telecommunications service. This language clarifies that States can establish terms and conditions, consistent with subparagraph (A), so long as such terms and conditions do not amount to an effective prohibition. This standard was borrowed from subparagraph (A), and is consistent with the overarching goal of enabling States to impose necessary and appropriate terms and conditions so long as they do not amount to an effective prohibition on entry into the telecommunications business.

Section 201(c)(3)(C) has been added to make clear that the language preempting State and local entry barriers shall not be construed to prohibit a local government from requiring a carrier or other person to obtain ordinary and usual construction or similar permits for its operations. This provision is intended to make certain that local governments have authority to oversee street closings and excavations and related activity as may be necessary in the ordinary course of constructing telecommunications facilities.

Subparagraph (C) also makes clear that this language does not give local governments the power to use construction and other permits to impose conditions that effectively prohibit any person or carrier from providing any interstate

or intrastate telecommunications service or information service. This should be treated as the same standard as set forth in subparagraph (A) and (B).

Section 201(d)(3)(F) contains a broader directive to the Commission to study how open platform service and other advanced network capabilities, including broadband telecommunications facilities, have been deployed. Thus, the Commission will seek information concerning how open platform service and other similar advanced network capabilities have been deployed throughout the country, consistent with the information enumerated in clauses (i)–(iv).

Section 201(e)(3) was amended to direct the Commission to establish regulations on infrastructure sharing between large local exchange carriers [LEC] and "qualifying carriers" so that a large LEC would not be required to share its facilities with a qualifying carrier that is not reasonably proximate to the large telephone company. This limiting principle was added so that a large LEC would not face requests, or demands, for infrastructure sharing from qualifying carriers across the country, but only from carriers that were "reasonably proximate" to the large LEC. Without this limiting principle, there was a legitimate concern that this open-ended requirement could have acted as a disincentive to large LEC's to deploy advanced capabilities.

Section 108 has been amended to direct the Commission to receive comments in electronic formats and to establish an online method of conducting some of its business. This requirement helps the Commission stay current with the burgeoning telecommunications industry. In addition, this section now contains references to the "national information infrastructure," which is a broader term than "Internet," which was in the committee bill.

Section 109 contains additional congressional findings recognizing rules the Commission has adopted to promote participation by minority groups and women, and small businesses. This language should not be construed to confer any approval or disapproval on regulations the Commission has adopted with respect to promoting minority participation in communications services.

In title II, section 210(a) clarifies that the obligation not to retransmit the signal of a broadcasting station without consent of the originating station does not extend to retransmission of superstation signals by microwave common carrier. Section 210(a) also restricts the exemption in section 325(b)(2)(D) to retransmission of superstation signals to customers outside of the originating station's television market.

Section 210(b) eliminates the existing statutory basis for determining television markets, as used in this title, and instead grants the Commission authority to choose an appropriate definition based on commercial publications. The Commission is directed to determine television markets by regulation or order to give interested parties appropriate notice and opportunity to comment.

Section 653 has been amended to make clear that any common carrier subject to title II of the Communications Act of 1934, and that provides video programming directly or indirectly to its subscribers, shall establish a video

platform and otherwise comply with the requirements contained in section 653. This change clarifies that all common carriers that seek to provide video programming to their subscribers, directly or indirectly, must adhere to the important safeguards that have been built into this section.

Section 656(b)(4) has been narrowly expanded to permit joint ventures, or purchases, of cable systems in unique circumstances. The intent behind this amendment is to promote implementation of facilities-based competition in the delivery of video programming in a narrow class of circumstances where such a goal may be impeded by the general provisions of section 656. The test set forth in paragraph (4) requires that the "subject cable system" operates in a television market that is not in the top 25 markets, and that the market is characterized by at least 2 systems, where the largest cable system in the market is owned or controlled or under common ownership of any of the top 10 largest multiple system operators [MSO's]. In addition, paragraph (4) requires that the "subject cable system" is not owned or controlled by any of the 50 largest MSOs. Finally, the language in subparagraph (B) describes the situation where the largest cable system and the subject cable system both held franchises, as of March 1, 1994, from the largest municipality in the television market, and that each franchisee could offer cable service in the entirety of the franchise area of the other cable system. In that sense, each had a nonexclusive franchise from the largest municipality.

In light of these narrow and exceptional circumstances, it is my view that the two-wire goal actually would be advanced by permitting a telephone company to invest in the subject cable company.

Section 654(a)(2) has been clarified to make certain that all local exchange carriers must comply with the certification requirement contained in section 654(a)(1), regardless of whether they were permitted provide video programming by virtue of State laws and regulations on interconnection and equal access that were substantially similar to the requirements of section 201(c), or by virtue of a court holding that the cable/telco prohibition was not applicable to a particular carrier. Thus, all carriers must certify compliance with section 201(c) after the effective date of the regulations promulgated pursuant to such section.

THE NATIONAL COMMUNICATIONS COMPETITION AND INFORMATION INFRASTRUCTURE ACT OF 1994

Mr. Speaker, it is with great pleasure that I rise today to offer to my colleagues in the full U.S. House of Representatives H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1994. This legislation represents a comprehensive reform package that will facilitate the most extensive legislative overhaul in the telecommunications industry since passage of the Communications Act of 1934. This bill, in combination with H.R. 3626, the Antitrust Reform Act of 1993, will serve as the blueprint for the development of the information superhighway, and will encourage the deployment of advanced digital communications to homes and businesses throughout the Nation.

In presenting this legislation today, I am joined by a bipartisan majority of the Subcommittee on Telecommunications and Finance, the subcommittee of origin for H.R. 3636. I am also pleased to acknowledge the endorsement of Vice President Gore and representatives of the Clinton administration.

I offer this legislation to my colleagues on the floor today with one goal in mind: to benefit consumers by facilitating competition between and among the cable and telephone industries in the delivery of video services. H.R. 3636 will fulfill this goal by establishing the guidelines that will allow telephone companies to offer multichannel video programming in competition with traditional cable companies. It will create competition in the local telephone exchange by requiring telephone companies to offer interconnection and equal access to their networks. And, most important, H.R. 3636 embraces the fundamental philosophy of universal service embodied in our communications policy which is to ensure that all Americans have access to basic telephone service at affordable rates. Together, these principles will promote and accelerate advances in, and access to, new and improved telecommunications capabilities.

In the short term, the advent of competition between these billion-dollar industries will translate into fast-paced job growth within the communications, electronics, and programming fields. Traditional cable companies, recognizing the potential competitive threat, will speed up their efforts to increase bandwidth by converting their systems to a digital-based fiber network, thereby increasing their channel capacity and facilitating their emergence into the realm of interactive communications. Expanded channel capacity will stimulate demand for the creation of new programming, initially in the form of traditional cable programming and new cable channels, and, eventually, in the form of interactive video services.

The anticipation surrounding the enormous lucrative potential for the development of these new, interactive services—ranging from interactive videogame channels to at-home banking availability—has fueled the drive toward passage of this bill. Already, the demand for channel capacity has outpaced the availability of channel program offerings. This demand, in fact, has led to a proliferation of announcements of cable channels and new video services planned for future deployment: an interactive TV-game-show channel; pay-per-view movie channels where the consumer may choose from an on-screen display of options; or the SegaChannel, providing interactive videogames for at-home play. In the long term, we can expect that the convergence of these behemoth communications industries will spawn the development of entire new industries.

As we vote today on H.R. 3636, we are endowed with an abundance of information on the consequences and implications of a decision to support the convergence of the cable and telephone industries in today's marketplace. This extensive record of knowledge has been gathered by my subcommittee through a total of 11 hearings throughout the 103d Congress. In February of this year, the subcommittee held seven hearings on the issue of

H.R. 3636 and H.R. 3626, the Antitrust and Communications Reform Act of 1994. We heard testimony from more than 50 witnesses, representing such diverse fields as set-top box manufacturers, Federal- and State-level government agencies, the small cable industry, regional and rural telephone companies, the Communications Workers of America, academics, and members from the public interest arena.

I strongly believe that this legislation crafted out of these hearings represents a balanced and pragmatic response to these competing voices. While H.R. 3636 may not resolve each conflicting concern of all affected industries, there is no debating the fact that every American and every industry engaged in the business of communications stands to benefit from this bill. Let me explain how competition between these industries will evolve.

In passing legislation to promote competition between the cable and telephone industries, we are establishing a blueprint which will facilitate the development of a vast communications infrastructure, often referred to as the information superhighway. As part of this effort to promote competition to communications monopolies, information providers will be granted the right to compete with the local telephone company and to use its facilities. Such competitors, be they in the form of cable companies, independent phone companies, or others, will be allowed equal access to, and interconnection with, the facilities of the local phone company so that consumers are assured of the seamless transmission of telephone calls between carriers and between jurisdictions. Title I of the bill requires local telephone companies to provide nondiscriminatory access to their facilities and interconnection to their networks. It also directs the FCC to prescribe rules that will compensate local exchange carriers for interconnection and equal access, exempting rural telephone companies from these interconnection requirements. We include language which targets those telephone companies which serve low density areas and ensures that toll rates for rural customers remains comparable for urban customers.

This section gives the Commission the necessary powers to implement this legislation, which the Commission apparently lacks under current law.

On June 10, 1994, in *Bell Atlantic v. FCC*, the DC Circuit Court of Appeals severely curtailed the FCC's attempts to pave a procompetition and proconsumer information superhighway. The Court of Appeals struck down an FCC order compelling local telephone companies to open up their facilities to—or physically collocate with—other providers of telecommunications and information services.

The court suggested that an FCC order mandating physical collocation may amount to a taking. The fifth amendment dictates that no property shall be taken by the Government without the payment of reasonable and just compensation. Since compensation for takings are generally drawn from the Treasury coffers, which is the sole province of the legislature, any congressionally unauthorized draw upon that resource is deemed invalid. The *Bell Atlantic* court pointed out that the Communica-

tions Act of 1934 does not grant the FCC explicit power to order taking of property, which, of course, requires compensation. Therefore, the physical collocation regulatory scheme required to spur competition and limit costs is not available to the FCC under its current Congressional grant of authority.

This lack of FCC authority has been anticipated by the committee in HR 3636. In language which predates the *Bell Atlantic* holding, the bill explicitly empowers the FCC to direct these carriers to allow other information providers to physically interconnect with their facilities. Such interconnection will provide consumers with a far more diverse range of telecommunications services and will spur competition to ensure that the costs of these services are reasonable. The bill also directs the FCC to establish regulations requiring just and reasonable compensation to the local telephone company providing these interconnection services.

The *Bell Atlantic* case highlights the necessity of this legislation and the immediacy of the problem. Without the congressional grants of authority which H.R. 3636 endows, the FCC lacks the tools needed to pave a high quality and affordable information superhighway.

H.R. 3636 creates a national communications policy whereby all States face the same regulatory regime in the provision of local telecommunications service. This is facilitated by prohibiting States or local governments from imposing regulations that would be contrary to the creation of competition in the local telephone loop. H.R. 3636 does, however, respect the States' important role in the oversight of intrastate telecommunications policy by allowing them to impose terms or conditions necessary to protect consumer protection laws, public safety concerns, and equitable rates.

H.R. 3636 also directs the FCC to develop rules to establish a Federal-State Joint Board to preserve and enhance universal service at just and reasonable rates. The goal of universal service has been at the core of communications policy since the passage of the Communications Act of 1934, and refers to the availability and accessibility of basic telephone service at reasonable rates, for all Americans. H.R. 3636 recognizes the concern that some consumers may want to simply subscribe to the same plain old telephone service or a comparable service to which they subscribe now. It is our intent to avoid advocating a particular or extravagant service; therefore, the bill directs the Board to examine varying services, the extent to which various telecommunications services are subscribed by customers, and to locate areas where denial of such services unfairly affects educational and economic opportunities of those customers.

The bill also directs the Joint Board to examine a number of issues as they formulate a plan to preserve and enhance universal service. Of course, the considerations outlined in paragraph (6) are not binding on the Commission or the States, since they have the ultimate decisionmaking authority. Instead, as part of the normal Federal-State Joint Board process, there will be recommendations that the Federal and State regulators can either accept or reject in whole or in part.

One of the issues the Joint Board will address is the issue of alternative or price regulations. It is worth noting that a majority of

States choose some form of rate of return regulation for its citizens. In addition, by distinguishing alternative and price regulation from cost-based rate of return regulation, the committee recognizes that alternative regulation encompasses a variety of regulatory schemes, including pricing flexibility, incentive regulation and sharing of excess profits, all of which allow regulated telephone companies to price services and not return on costs.

The bill also directs the Commission to establish pricing flexibility regulations, which can serve as a transition from a regulated market to a competitive market, and can be used in proportion with the level of competition that exists in a particular market. The bill requires that these pricing flexibility regulations only can be used when a telephone company faces competition, and, most importantly, other forms of regulations are not needed to protect consumers. Thus, if the local exchange carrier faces sufficient competition so as to enable the Commission to conclude that competition will protect consumers from unjust or unreasonable rates, then the Commission may adopt a flexible pricing procedure.

H.R. 3636 directs the FCC to conduct a study on open platform service, taking into account existing facilities as well as new facilities with improved capacity. It is important to note that it is our intent to remain technologically neutral in our efforts to promote the deployment of advanced technologies and services.

Section 103 of H.R. 3636 contains provisions to survey the Nation's elementary and secondary schools and classrooms, public libraries, and health care institutions and report on the availability of advanced telecommunications services to these institutions.

The bill also empowers the FCC to define the circumstances under which a carrier may be required to interconnect its telecommunications network with educational institutions, health care institutions, and public libraries. Moreover, it directs the Commission to provide for the establishment of preferential rates for telecommunications services, including advanced services, provided to such institutions or the use of alternative mechanisms to enhance the availability of advanced services to these institutions.

I believe that there is perhaps no more important societal benefit to upgrading our Nation's information infrastructure than uplifting the hopes, dreams, and aspirations of millions of schoolchildren through increased access to information in America's elementary and secondary schools.

Getting phone jacks and/or cable links into every classroom won't be a quick fix for educational restructuring, but it is the sine qua non for allowing children to move beyond the physical barriers of the classroom to a host of potentially rich resources, mentors, and friends that can be accessed remotely. In my view, technology in the classroom is not meant to be a substitute for good teachers, but rather, it allows a teacher to shift from presenting talk to chalk to facilitating learning and encouraging a child's exploration of ideas by utilizing modern, information age tools.

I feel strongly that it is important to get these needed learning links established to schools because it can help mitigate against what I see is a widening gap between informa-

tion-haves and have-nots. I believe that telecommunications technology can become a great equalizer in American education. Though a child may not have access to information age appliances in the home, may not have parents who subscribe to cable or own a computer, the school can help give them the tools they will need to compete for jobs in a knowledge-based economy. For this reason, I believe it is vitally important that we maximize the benefits that this legislation can bring to young children at school. I also want to include in the record at the end of my statement a letter from the Committee on Education and Labor reporting this section.

In addition, title I of H.R. 3636 addresses local authority over the rights-of-way, including language which asserts the right of city and local governments to maintain their rights-of-way. The municipalities stand to benefit greatly from the promotion of a communications infrastructure, and I believe that it is our responsibility to ensure that city and local governments are positioned to take advantage of the benefits. We include express language within this to ensure that a municipalities inherent authority to regulate their public rights-of-way is fully preserved within this legislation.

The bill also contains section 107 which amends the Pole Attachment Act. Under that amendment, a cable operator that did not offer telecommunications services would still be entitled to a pole attachment rate under the "just and reasonable" standard set forth under existing law. A cable operator that offered telecommunications services as well as cable service would be required to pay a pole attachment rate as established under the standard added to the Pole Attachment Act by the amendment.

Thus, this section does not require a cable operator to pay twice for a single pole attachment, if the operator is providing cable and telecommunications services. Moreover, a cable operator would only be required to pay for a single attachment—albeit under the new standard rather than the one set forth under current law—if the operator offers cable and telecommunications services through a single wire, or if the operator incorporates two wires at a single attachment, or if the operator over-lashes a second wire for telecommunications services on the operator's existing cable plant. All of these are examples of a single pole attachment. If the operator can provide cable and telecommunications services using a single pole attachment, the operator would only be required to pay for a single attachment.

In fostering the goal of universal service, H.R. 3636 includes specific language designed to encourage the deployment of communications capabilities to underserved areas and populations. Title I of the legislation includes provisions which direct the FCC to examine the accessibility of telecommunications services in rural areas, and grants the Commission the ability to modify any of the open platform obligations if they prove economically or technically infeasible. Furthermore, the Commission is directed to promulgate regulations expressly designed to promote access to the network for disabled persons, small business and minority business interests, as well.

Title II of H.R. 3636 is designed to promote competition to the cable television industry by

permitting telephone companies to compete in the provision of video programming and services. Under current law, telephone companies are prohibited from offering cable service within their telephone service area. This restriction, established in 1970 Commission regulations and codified under the 1984 Cable Act, stems from the tradition of favoring policies which encourage a wide variety of ownership of media sources. We credit these ownership restrictions, in part, for facilitating the deployment of two wires to each home, an outcome which will help to promote more effective competition between and among telephone and cable companies.

When these initial restrictions were adopted in the 1970's, cable television was a nascent industry. The establishment and implementation of ownership rules was a necessary step to protect against encroaching telephone companies who, at the time, controlled the only wire to the home. Since that time, the cable industry has flourished, able to now claim 65 percent national penetration.

In a recent court challenge to the FCC's video dial-tone proceeding, a Federal district court in Virginia overturned the statutory cross-ownership provision in the 1984 Cable Act, a decision currently under appeal. A district court in Seattle, WA reached a similar result. Without legislation, therefore, the entrenched regional and local telephone networks may be allowed to deliver cable service before proper protections are put in place to ensure that the information superhighway develops in an open, competitive environment for the benefit of consumers as well as for a diversity of producers of programming and services. This is an important point, and must be considered as we debate passage of this legislation.

Title II establishes the guidelines through which telephone companies may engage in the business of video delivery. To advance the goal of unrestricted competition, H.R. 3636 allows telephone companies to offer multi-channel video programming through a separate affiliate, and on a common carrier basis. The separate affiliate must construct a video platform capable of meeting all bona fide channel capacity and carriage demands of video programmers, and must include a suitable margin of unused channel capacity to accommodate a reasonable growth in demand. We include language which requires the affiliate to petition for approval with the FCC, thereby granting them the authority to require carriage and award damages in the event of a violation of these requirements.

In order to protect against media concentration, and to promote a more fully competitive marketplace, H.R. 3636 prohibits telephone companies from buying cable systems within their telephone service territory. We include limited exceptions to foster the expansion of competition within rural and underpopulated areas, and with small markets.

Any affiliate interested in offering programming on its video platform must also adhere to the same public interest and general franchise obligations mandated under the Cable Act of 1992. These rules oblige all competitors interested in providing video services to comply with all consumer protection provisions, program access requirements, rules governing

the carriage of public, educational and governmental channels, and equal employment opportunity requirements.

This section also clarifies the right of a local government to collect fees from the video programming affiliate of a common carrier, or any other competitor wishing to offer multichannel video programming. Currently, franchise authorities only receive franchise fees from cable operators, a right granted to them in the Cable Act of 1984. If a telephone company or any other provider of video delivery chooses to compete with a cable operator in the delivery of video service, H.R. 3636 ensures that the telephone company and others will pay the exact same level of fees as cable operators.

This also applies to a telephone company's obligations to provide public, educational and governmental [PEG] access channels. H.R. 3636 requires telephone companies to meet the exact same level of PEG access as the local cable operator and as a cable operator's PEG obligations may increase in the course of franchise or other negotiations, a local telephone company's obligations should increase correspondingly.

This section also maps out the process through which a common carrier may obtain approval by the FCC to deliver video services. We include language which requires the FCC to ensure that video platforms comply with equal access and interconnection standards. The FCC is also instructed to ensure that restricts a common carrier from including, within the basic telephone rate, any expenses associated with the provision of video programming; and which prohibit cable operators from including in the cost of cable service any expenses associated with the provision of telephone service. We do not intend, in any way, for telephone ratepayers or cable subscribers to subsidize the independent business endeavors of their telephone or cable company.

H.R. 3636 also contains several provisions affecting television broadcasters that are designed to help broadcasters to compete more fully in developing the information superhighway. This includes a review of the ownership restrictions promulgated by the Commission over the years. While such a review is warranted, H.R. 3636 does not direct the Commission to undertake wholesale elimination of these rules which have done so much to ensure diversity and localism in our broadcast media. And while broadcasters should be able to compete fairly with other information providers H.R. 3636 does not adopt the relatively high concentrations of ownership in the cable television or the telephone industries as a standard for the Commission's review of these rules.

One of the areas of the bill that represents a significant new addition to communications policy is the section dealing with broadcaster spectrum flexibility. Above all, H.R. 3636 is careful to leave the Commission a great deal of room in which to determine many as yet unresolved issues. It does not preclude the Commission's previous efforts at developing standards for high definition television services that will represent a major improvement in the quality of television service, nor do we even mandate the current proposed allocation of spectrum. If the Commission chooses to proceed, however, we have set a series of impor-

tant conditions on the allocation of new spectrum. For example, the terms ancillary and supplementary necessarily imply that such services are connected with and dependent on the main channel signal and should not predominate over this primary use of the spectrum. The bill also requires that ancillary and supplementary uses of broadcasters' spectrum be indivisible from its use for advanced television services. Thus, ancillary and supplementary uses must be transmitted in direct conjunction with the licensee's main channel signal and not offered on spectrum that is distinct or separated from the spectrum used for the main signal.

An essential component of the competitive endeavor of H.R. 3636 is to provide consumers with more choice. I believe that it is important to ensure that in the same way consumers will be provided with a variety of options between telecommunications providers and cable operators, they deserve to be offered a variety of standardized communications equipment, as well. I want to be sure that, similar to the equipment compatibility requirements of the Cable Act of 1992 which mandated standardized cable equipment, all consumers can benefit from a wide array of choices and suppliers at reasonable, market-driven cost. H.R. 3636 requires the FCC to commence an inquiry to examine the importance of open and accessible systems in interactive communications. This section, often referred to as the set-top box provision, instructs the commission to prescribe changes in its unbundling regulations to ensure that interactive communications devices are available from third party vendors and retail outlets. As my colleagues are aware, the set-top box could soon become the gateway through most, if not all, information enters the American home.

Most technological innovations in the area of information and telecommunications services have been developed without considering the needs of individuals with disabilities. The consequence has been that many of these innovations have been useless for individuals with disabilities. Indeed, the general failure to consider access for the disabled during the initial stages of telecommunications product and service development has actually led to a reduction in access for persons with disabilities.

The national information infrastructure promises to bring information, health care, banking, shopping, and other services within easy reach at home or in the office through information services and products. In keeping with the spirit of the Americans with Disabilities Act's goal of fully integrating people with disabilities into the mainstream of society, the current legislation is designed to ensure access for the disabled as new telecommunications technologies and services are developed. Our legislation will ensure that advances in network services deployed by local exchange carriers and advances in telecommunications equipment will be accessible to people with disabilities where it would not result in an undue economic burden or an adverse competitive impact.

In addition, H.R. 3636 directs the FCC to undertake inquiries for the provision of both closed captioning and video description services, and further directs the Commission to establish a schedule for the provision of closed

captioning. The legislation aims to provide disabled Americans with access to advanced communications networks and the opportunities for independence, productivity, and integration that will result from these new services and products.

Section 206 directs the Commission to establish a schedule or timetable for the implementation of closed captioning. It requires that new programming be made accessible through captioning and previously produced programming be made accessible to the maximum extent possible. The legislation also provides for exemptions from captioning requirements based on several factors. While much of prime time broadcast programming is now captioned, reports to the committee from the National Center for Law and Deafness indicate that less than 10 percent of basic cable programming is captioned. This section would require that all video programming be captioned where economically feasible.

During subcommittee consideration, questions were raised regarding the constitutionality of this section. I have attached a review of this issue from the Georgetown University Law Center which clearly finds that the section is constitutionally sound. I concur with the analysis which finds that the requirement is an incidental restriction subject to review under the standard set forth in *United States versus O'Brien*.

In directing the Commission to establish a schedule for the provision of closed captioning, the committee intends that programming be made accessible to the 24 million Americans who are hearing impaired where it would not be unduly burdensome to the provider of the programming. The committee does not intend that programming not be aired due to the requirement for captioning. However, the committee has stated its clear goal that access for the disabled be considered and pursued at the outset of the development of new products and services.

This provision is consistent with the first amendment because it is content neutral, and it is narrowly tailored to serve a compelling governmental interest. That interest is to make communications available, as far as possible, to all the people of the United States.

As more information essential to functioning in society moves onto advanced communications networks, it is critical that all citizens have access to this information. Many new services and products will be available over communications networks in video form, including health care services, library resources, educational information, financial and governmental data. Access to vital governmental information carried on these networks is critical to an informed electorate. Much of this information is necessary to full participation in work, school, and all aspects of life. As this information begins to be provided in video form, it is the goal of the committee that the 24 million Americans who are hearing impaired have full access to these products and services.

H.R. 3636 strives to ensure that public broadcasters are also guaranteed a strong position in the development of the information superhighway. Public broadcasters, in my opinion, should be heralded as a preeminent example of innovative and responsible news media, fulfilling a critical role by providing

quality programming and important community service to all facets of American society. They have been in the forefront of numerous technological innovations and have spearheaded a variety of educational projects that have benefited all Americans. In this tradition, I strongly believe that public broadcasters will continue to play a crucial role in the development of the national communications infrastructure. The language we have included in the legislation recognizes the limited resources available to this community, and requires the FCC to prescribe regulations to reserve appropriate capacity for the public at preferential rates on the video platform.

Title III of this bill is designed to encourage economic opportunities for business enterprises owned by minorities and women. It requires each telecommunications provider interested in offering video services to submit to the FCC a plan which outlines procurement proposals from businesses owned by women and minorities.

Title IV authorizes appropriations for the FCC to fulfill its obligations under the National Communications Competition and Information Infrastructure Act of 1994.

In closing, I would like to extend my deepest gratitude to my fellow colleagues, JACK FIELDS, and Representatives BOUCHER, OXLEY, RALPH HALL, RICK LEHMAN, JOE BARTON, and other colleagues who helped craft a solid piece of legislation. This bill has become a model of consensus politics, and I thank each one of you for your contributions. I would also like to thank the staff on the subcommittee, Gerry Waldron, David Moulton, David Zesiger, Colin Crowell, Mark Horan, Kristan Van Hook, Karen Colanino, Steven Popeo, and Winnie Loeffler of my staff, Mike Regan and Cathy Reid, Gail Giblin, and Christy Strawman of JACK FIELDS' office who, together, worked many hard hours to develop the legislation we will vote on today.

I urge you to support this H.R. 3636 and I yield back the balance of my time.

GEORGETOWN UNIVERSITY LAW CENTER,
Washington, DC, June 8, 1994.

Hon. EDWARD J. MARKEY,
Chairman, Subcommittee on Telecommunications and Finance, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE MARKEY: As you know, Section 206 of H.R. 3636, The National Communications Competition and Information Infrastructure Act of 1994, requires the Federal Communications Commission to conduct an inquiry to determine the extent to which video programming is closed captioned and to ascertain other information relevant to closed captioning. §206(a). It then directs the FCC to adopt regulations to ensure that video programming produced after the effective date is fully accessible through closed captioning and to maximize access to video programming produced prior to the effective date. §206(b). The statute also provides for exemptions to the captioning requirement where the provision of captioning would be unduly burdensome to the provider or owner of the programming. §206(d).

The constitutionality of these provisions has been questioned by the Media Institute. See Letter of The Media Institute to Rep. Moorhead, March 11, 1994 ("Media Institute Letter"); The ACLU has also raised some concerns about these provisions. See Letter of ACLU to Rep. Richardson, March 15, 1994 ("ACLU Letter"). The ACLU acknowledges

that the closed captioning requirement is merely an "incidental restriction" subject to intermediate review under *United States v. O'Brien*, 391 U.S. 367 (1968). It believes that the outcome of such review is unclear. ACLU Letter at 4-5. The Media Institute, however, asserts that Section 206 is content-based, and thus would be subject to strict scrutiny. Media Institute Letter at 3. Both the ACLU and Media Institute letters express concern that the statute invests unconstitutionally broad discretion with the FCC. *Id.* at 5; ACLU Letter at 5.

We have carefully studied these contentions and concluded that the closed captioning requirement itself is constitutional and that the statute gives constitutionally adequate guidance to the FCC for its implementation.

Let us observe at the outset, that if Section 206 were to be challenged on First Amendment grounds, the challengers would face two threshold obstacles. First, the canons of statutory construction direct that a statute must be construed, if fairly possible, to avoid the conclusion that it is unconstitutional. See *Rust v. Sullivan*, 111 S.Ct. 1759, 1771 (1991) and cases cited therein. Second, a facial challenge is "the most difficult challenge to mount successfully since the challenger must establish that no set of circumstances exists under which the Act would be valid." *Id.* at 1767, quoting *United States v. Salerno*, 481 U.S. 739, 745 (1987). We do not believe that such a showing could be made here.

Were someone to challenge Section 206 as violating the First Amendment, the courts would undoubtedly find that Section 206 is a content-neutral regulation subject to intermediate scrutiny under the *O'Brien* test. Section 206 makes no distinctions on the basis of content. Indeed, the only distinction made is between programming produced before and after the effective date of the statute. Moreover, the criteria for exemptions involve economic factors, not content. Additionally, closed captioning does not require the creation of new and different content; it merely requires that the already produced verbal content be put in a form accessible to persons with impaired hearing.

Nor, should Section 206 be subject to strict scrutiny because it "forces" speech. Relying on cases such as *Wooley v. Maynard*, 430 U.S. 705, 714 (1977), *Miami Herald Pub. Co. v. Tornillo*, 418 U.S. 241 (1974), and *Pacific Gas & Electric Co. v. Public Utilities Comm'n*, 475 U.S. 1, 9 (1986) (*PG&E*), the Media Institute and ACLU argue that Section 206 requires unconstitutional forced speech. Media Institute Letter at 1-3; ACLU Letter at 2-3. However, these cases involved situations which imposed burdens on speech, in contrast to Section 206.

In *Wooley v. Maynard*, the Court found that a state may not constitutionally compel an individual to display the slogan "Live Free or Die" on his license plate if he found it morally objectionable. 430 U.S. at 714-15. In *Miami Herald*, the Court struck down a right of reply statute that required newspapers that criticized a political candidate to publish a reply. 418 U.S. at 256-58. In *PG&E*, the Court found it unconstitutional to force a utility company to include in its billing envelopes the speech of a group with whom the company disagrees. 475 U.S. at 9-16.

What each of these cases have in common is that they involved a regulation that compelled a speaker to make utterances with which he or she disagreed. Section 206, however, does not require anyone to say something that he or she disagrees with. It mere-

ly requires video programmers to make the speech they freely chose to make available for public distribution accessible to persons with impaired hearing.

Nor, does *Riley v. Nat'l Federation of the Blind*, 487 U.S. 781, 797 (1988) provide any support for ACLU's position. In *Riley*, the Court found it unconstitutional to require professional fundraisers to disclose the percentage of charitable contributions actually turned over to charity because such "compelled disclosure will almost certainly hamper the legitimate efforts of professional fundraisers to raise money for the charities they represent" and discriminates against small charities which must usually rely on professional fundraisers. *Id.* at 799. Here, unlike in *Riley*, however, where the provision of captioning would be unduly burdensome, an exemption is available.

Thus, Section 206 is clearly content neutral and should be evaluated under the *O'Brien* test. Under this test, content neutral regulations will be upheld if they are "narrowly tailored" to serve an "important or substantial governmental interest." 391 U.S. at 377.

Here, closed captioning furthers the government's long standing interest as expressed in the FCC's universal service obligation: to make communications "available, so far as possible, to all the people of the United States." Communications Act of 1934, §1, 47 U.S.C. §151. Congress has furthered this interest by passing numerous pieces of legislation designed to increase the access of persons with impaired hearing to communications. See, e.g., Telecommunications for the Disabled Act of 1982, P.L. 97-410, codified at 47 U.S.C. §610, as amended (1988) (insuring reasonable access to telephone service by persons with impaired hearing); Hearing Aid Compatibility Act of 1988, P.L. 100-394, codified at 47 U.S.C. §610 (1988) (finding that hearing impaired persons should have equal access to the national telecommunications network to the fullest extent possible and requiring the FCC to enact rules to require that telephones manufactured or imported after August 1989 be hearing aid compatible); Americans with Disabilities Act of 1990, 47 U.S.C. §2215, *et seq.* (requiring telephone companies to provide relay services to enable individuals who use TDDs to communicate with anyone, at any time, over the telephone); Television Decoder Circuitry Act of 1990, 47 U.S.C. §§303(u), 330(b) (1991) (requiring all television sets with screens 13 inches or larger which are manufactured or imported after July 1, 1993 to be capable of displaying closed captioned television programs).

In the Television Decoder Circuitry Act of 1990, Congress specifically found that "closed captioned television transmissions have made it possible for thousands of deaf and hearing-impaired people to gain access to the television medium, thus significantly improving the quality of their lives" and that "closed-captioned television will provide access to information, entertainment and a greater understanding of our Nation and the world to over 24,000,000 people in the United States who are deaf or hearing impaired. P.L. Law 101-431, §§2(2) & 2(3). Now that more television sets are able to display closed-captioned programming, requiring video programming to be closed-captioned will likewise further these important government interests.

Closed captioning benefits not just people who are deaf or hard of hearing, but also children learning to read, persons for whom English is a second language, and adults who are illiterate or remedial readers. See H.R.

Rep. No. 767, 101st Cong., 2d Sess. 5-6; S. Rep. 398, 101st Sess., 2d Sess. 1-2. It is estimated that nearly 100 million Americans can benefit from television captioning. Thus, there can be no question that Section 206 furthers a substantial governmental purpose.

Furthermore, Section 206 is narrowly tailored to achieve those government purposes. To be narrowly tailored, the regulation need not be the least restrictive; the government need only show that its interest would be achieved less effectively absent the regulation. *Ward v. Rock Against Racism*, 491 U.S. at 799-800 (1989). Here, it is clear that the governmental purpose of making programming accessible would not be achieved without the requirements of Section 206. While some types of video programming are already captioned (approximately 75 percent of television network programming is closed captioned), the vast majority of video programming (especially programming available on basic cable channels) is not and is unlikely to be captioned in the foreseeable future absent the proposed legislation. Moreover, exemptions are available to provide relief where closed captioning will be unnecessarily burdensome.

Nor is Section 206 constitutionally suspect because it gives the FCC overly broad discretion to grant exemptions. Media Institute Letter at 5; ACLU Letter at 5. Citing *Lakewood v. Plain Dealer Publishing Co.*, 486 U.S. 750, 757 (1988), the Media Institute claims that the Section 206 would vest unbridled discretion with the FCC, permitting it to exempt from Section 206's captioning requirement "the programming it favors and to deny exemptions to programming it disfavors." Media Institute Letter at 5.

This reasoning is surely backwards. First, it erroneously assumes the FCC is entitled to exercise its discretion in an unconstitutional way. Second, it makes the unfounded assumption that the FCC actually favors certain programming. Third, even if we were to accept this peculiar notion, would not the FCC want that favored programming to receive wider distribution, i.e., to require captioning, rather than the other way around?

But fortunately, Section 206 does not give unbridled discretion to the FCC. Indeed, unlike the statute in *Lakewood*, which contained no explicit limits on the mayor's discretion to grant or deny permits for news racks, Section 206 provides explicit criteria for the FCC to use in considering exemptions. First, the FCC may by regulation exempt "programs, classes of programs or services" if it finds that closed captioning would be "economically burdensome to the provider or owner of such programming." § 206(d)(1) (emphasis added). Second, a video programming provider or owner may petition the Commission for an exemption, and the Commission may grant it upon a showing that adhering to closed captioning requirements would result in an "undue burden." § 206(d)(3). "Undue burden" is defined as "significant difficulty or expense." § 206(d). In determining whether compliance would entail undue burden, the FCC is directed to consider specific factors: the nature and cost of the closed captions for the programming; the impact on the operation of the provider or program owner; the financial resources of the provider or program owner; and the type of operations of the provider or program owner.

Section 206's definition of "undue burden" is patterned after use of this term in the Americans With Disabilities Act ("ADA"). See, e.g., ADA § 301(b)(2)(A)(iii). "Undue burden" in the ADA, in turn, was patterned

after the term "undue hardship," as that term has been used in the implementation of the Rehabilitation Act since 1973. S. Rep. No. 116, 101st Cong., 1st Sess. at 63 & 35-36. Agency interpretations of both of these terms—"undue burden" and "undue hardship"—have consistently relied on economic criteria, allowing waivers only after consideration of the cost to an applicant of a particular accommodation and the relative resources of the applicant. *Id.* at 36. Moreover, Department of Justice regulations implementing the ADA also define "undue burden" to mean "significant difficulty or expense." 28 C.F.R. § 36.104. The regulations list five factors to be considered in determining whether an action would result in "undue burden." These factors closely track the factors listed in Section 206(d). Thus, the term "undue burden" in Section 206 brings with it a long history of being a well-defined, content-neutral standard for granting exemptions from captioning and other requirements.

By no stretch of the imagination can one conclude that Section 206 leaves the FCC free to grant waivers on the basis of whether or not it favors particular programming. Rather, it limits the relevant factors for FCC consideration to the costs of providing access and the ability of the affected entity to afford those costs. It clearly meets the requirement established in *Grayned v. City of Rockford*, 408 U.S. 104, 103 (1972), that laws affecting free speech provide explicit standards for those who apply them.

The ACLU understands that undue burden is "defined largely on the basis of its financial or other impact on the service provider." ACLU Letter at 5. Specifically, it expresses the concern that "a smaller provider might be exempted for programming that is intended to reach a wider audience than a larger, more well-heeled provider who has made a conscious effort to reach a specific, more narrow audience." *Id.* It suggests that discrimination between speakers merely on the basis of financial ability is constitutionally suspect because it "favors certain classes of speakers over others." *Id.* citing *Home Box Office v. FCC*, 657 F.2d 9, 48 (D.C. Cir.) (per curiam), cert. denied, 434 U.S. 829 (1977) ("HBO").

ACLU's reasoning, however, is both legally and factually flawed. Whether the intended audience is broad or narrow is irrelevant—in either case, it will contain viewers who would benefit from closed captioning. While the size of the provider may be relevant to its ability to pay for the cost of captioning, there is no reason to assume that content provided by smaller providers is somehow distinct from content provided by wealthier providers. In *HBO*, the D.C. Circuit suggested that regulations favoring certain classes of speakers were constitutionally suspect only where the Government's intent was to curtail expression. 567 F.2d at 47-48. Here, there is no constitutional problem because there is no basis to believe that financial resources is somehow being utilized as a proxy for certain types of expression that the government wishes to curtail. Rather, the government's purpose is merely to make as much programming as possible available to as large an audience as possible. And as the Supreme Court has observed "a regulation that serves purposes unrelated to the content of expression is deemed neutral, even if it has an incidental effect on some speakers or messages but not others." *Ward v. Rock Against Racism*, 491 U.S. at 791.

ACLU next expresses concern that the FCC might exempt news programming from the captioning requirement because there would

be no time to incorporate closed captioning into breaking news stories. In fact, this assumption is wrong. The ACLU is apparently unfamiliar with "real time captioning" in which captions are simultaneously created and transmitted, using stenotypists and specialized computer software. Real time captioning is already being used by all national news programs and almost 200 local news programs.

Finally, the fact that Section 206 vests some discretion in the FCC does not make the provision unconstitutional. In responding to a similar challenge in *Ward*, the Supreme Court observed: "While these standards are undoubtedly flexible, and the officials implementing them will exercise considerable discretion, perfect clarity and precise guidance have never been required even of regulations that restrict expressive activity." 491 U.S. at 794. It is appropriate for Congress to assume that the FCC will implement Section 206 in a constitutional manner. It is a long-standing and well-accepted practice of Congress to leave the applications of such standards to administrative agencies. Indeed, Congress has routinely delegated to the FCC the responsibility to adopt implementing regulations and to grant exemptions with much more potential to influence content than Section 206. See, e.g., Communications Act of 1934, as amended, § 315(a), 47 U.S.C. § 315(a) (FCC to determine which programs are bona fide news programs exempt from equal opportunities for political candidates); *Id.* § 223(b)(3) (directing FCC to prescribe procedures by regulation for restricting access to indecent communications that will constitute a defense to prosecution for violation of law prohibiting indecent communications by telephone); *Id.* § 532(c)(4)(B) (directing the FCC to establish rules for determining the maximum rates, terms and conditions under which unaffiliated programmers can lease channels on cable systems).

In the unlikely event that the FCC were to interpret or apply Section 206 in an unconstitutional manner, judicial review would be available at that time. However, even if the agency's interpretation or application of a provision were found to be unconstitutional, this would not necessarily mean that the statute itself was unconstitutional. See *Rust v. Sullivan*, 111 S. Ct. at 1771.

In sum, the concerns that Section 206 violates the First Amendment are unfounded. The requirement that the FCC adopt regulations to require closed captioning is a content-neutral regulation narrowly tailored to serve a substantial government interest. It would easily pass scrutiny under the *O'Brien* test, and given the substantial nature of the governmental interest and lack of alternative means, would even likely survive strict scrutiny. Moreover, Section 206 is not vague, and provides adequate standards to believe that the FCC will implement it in a constitutional manner.

We appreciate the opportunity of providing this analysis to you and hope that it will be helpful.

Sincerely,

ANGELA J. CAMPBELL,
Associate Professor of
Law, Georgetown
University Law Center.

STEVEN H. SHIFFRIN,
Professor of Law, Cornell University.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON EDUCATION AND LABOR,
Washington, DC, March 15, 1994.

Representative JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce.

DEAR MR. CHAIRMAN: We understand the Committee on Energy and Commerce expects to mark up H.R. 3636, the National Communications and Information Infrastructure Act of 1993, this week. We are pleased that section 103 of the bill proposes to provide preferential telephone rates to elementary and secondary schools as well as to public libraries as a part of the overhauling of our national telecommunications policy. If enacted, these provisions could make access to the national superhighway affordable for all students and users of public libraries, regardless of a community's wealth or geographic location. All too often schools and libraries, the fundamental underpinnings of our communities, are left on the sidelines of the technological revolution. The bill helps to correct this problem. The preferential rate provisions of H.R. 3636 could complement several technology-related programs incorporated into H.R. 6, a bill to reauthorize the Elementary and Secondary Education Act, which is presently pending before the House.

We laud your efforts, and that of Chairman Markey, on behalf of schools and libraries. We would urge, however, that you also consider extending the preferential rates to "libraries which the public may access", rather than the more narrowly framed wording of the bill, "public libraries", and to educational institutions at all levels. We are concerned, for example, that there are many postsecondary education institutions, including two-year community colleges and many others which will simply not be able to afford full participation in the network, unless basic telephone rates are sufficiently low. At the very least, we would urge that there be a feasibility study by the Federal Communications Commission to expand preferential rates for these other categories.

We would appreciate inclusion of this letter in your Committee's report on H.R. 3636, to recognize the Education and Labor's jurisdictional interest in H.R. 3636.

Sincerely,

WILLIAM D. FORD,
Chairman.

WILLIAM F. GOODLING,
Ranking Republican.

□ 1340

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

Mr. FIELDS of Texas. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in strong support of H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1993. This legislation, like its companion measure H.R. 3626, which we have just considered, is more than just a telecommunications reform bill, it is legislation that will impact the future of this country—it will foster economic growth, create new jobs in a high tech industry, and spur greater U.S. competitiveness in the global telecommunications market.

Unquestionably the rapid changes in the telecommunications world will revolutionize the way all Americans live their lives. What we are doing today is simply saying that there should be a

road map—some national principles—that guide the manner in which that revolution occurs.

Presently we have no single guiding light on telecommunications policy. We have a patchwork of court decisions, consent decrees, a 60-year-old Federal statute based on railroad laws, and similar State utility laws that, taken in toto, dampens incentives and opportunities for U.S. telecommunications companies to build the information superhighway. Today we begin the process of setting policy on course toward building that highway to the future.

What we recognize today is that all telecommunications are converging, the traditional bright lines that separated telephone companies from cable companies no longer exist or make any sense. Recognizing this fact, Congress passed legislation last year to reform the world of wireless communications, to treat mobile, paging and other wireless services in the same manner when they are providing similar services. Today we are engaged in a similar process for the wired world: telephone companies providing cable and cable and others providing local telephone service.

H.R. 3636 recognizes that the traditional monopolies of cable and local telephone service make no sense any longer. This infrastructure bill will tear down the legal and regulatory barriers that have perpetuated those monopolies and allow competition to flourish. Healthy competition in these markets is the best guarantor we can have that the telecommunications products and services of the future will be brought as swiftly and fairly priced to all Americans as possible.

There has been a significant amount of discussion throughout this process about creating the proverbial level playing field for all industry participants, and we have endeavored to ensure that the field is level. But as Members of Congress, our first duty is to create a level playing field for our constituents, the American public. As we enter the information age, our first responsibility is to ensure that all Americans—regardless of their demographics, regardless of their economic status, and regardless of their racial or ethnic make-up, have equal access to the information age. The overarching, and most important, objective of this bill is to ensure that this level playing field exists.

Therefore, I strongly urge my colleagues to join me in supporting H.R. 3636. I want to comment my good friend the subcommittee chairman, Mr. MARKEY, for his leadership and vision in bringing us to this historic day. I might add, we have had 40 meetings in negotiating this legislation. I want to thank Messrs. BOUCHER and OXLEY for their invaluable contributions to this effort as well as the many other com-

mittee members who contributed to producing this critically important legislation. Finally, I want to thank the full committee chairman and ranking member, Messrs. DINGELL and MOORHEAD, for their hard work and persistence in bringing this measure before the House.

Mr. Speaker, I want to commend my good friend, the gentleman from Massachusetts [Mr. MARKEY], chairman of the subcommittee. As he has mentioned, we have had 2 years of meetings. He told me just a moment ago that we have had 40 personal meetings. I appreciate the fact that this piece of legislation has been handled in a bipartisan way and that we have had this level of discussion.

Mr. Speaker, I want to commend the chairman for his leadership and his vision in this important matter. It brings us to this historic day. I also want to thank the gentleman from Virginia [Mr. BOUCHER] and the gentleman from Ohio [Mr. OXLEY] for their invaluable contributions to this effort, as well as many of our other subcommittee members, in producing what I think is a critical and a bipartisan piece of legislation.

Finally, Mr. Speaker, I want to thank the gentleman from Michigan [Mr. DINGELL], the chairman, for the atmosphere he has provided on working on this, again in a bipartisan manner. When people criticize Congress, they cannot criticize the efforts of the Committee on Energy and Commerce, particularly on this piece of legislation.

Mr. Speaker, I also want to thank the ranking minority member, the gentleman from California [Mr. MOORHEAD] for his leadership in again providing us with the atmosphere in which to negotiate a very delicate balance with a number of competing interests, and I hold this out to my colleagues as one of the best pieces of legislation that will come before this House this year, and thus far in my career, a piece of legislation that all of us should be proud of and support.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL], chairman of the Committee on Energy and Commerce.

Mr. DINGELL. Mr. Chairman, I thank my dear friend, the gentleman from Massachusetts, for yielding me this time.

Mr. Speaker, I rise to commend the gentleman from Massachusetts [Mr. MARKEY], chairman of the subcommittee, the distinguished gentleman from Texas [Mr. FIELDS], the ranking minority member of the subcommittee, the ranking minority member of the full committee, the gentleman from California [Mr. MOORHEAD], the gentleman from Ohio [Mr. OXLEY], and a large number of other Members who have worked very hard.

Mr. Speaker, complaint was made that this legislation and the prior legislation, H.R. 3626, are going through

too fast. The hard fact is that we are getting this legislation through in something like 80 minutes after about 30 years of hard work in getting it in order. The effort to present this legislation to the floor has been bipartisan in its entirety.

The members of the full committee, the subcommittee, and of the leadership of both of those institutions deserve great credit for the hard work, for the effective, capable, dedicated, and decent way in which this legislation has been assembled.

Mr. Speaker, the country deserves to know of the work of these wonderful men and women, and also deserves to have the opportunity to express the thanks that they properly should feel for milestone legislation which is going to restructure the entirety of American telecommunications for the benefit of all the people. This is a day which we should celebrate, and I commend my colleagues. I thank them for the hard work which they have done.

Mr. FIELDS of Texas. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MOORHEAD], our ranking minority member.

Mr. MOORHEAD. Mr. Speaker, I rise in strong support of H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1994. This legislation is an important step in bringing a 60-year-old communications statute—the Communications Act of 1934—into the 21st century.

H.R. 3636 provides the statutory framework for the provision of new and advanced telecommunications services to the American people. In short, it lays the groundwork for the much talked-about information superhighway.

The bill accomplishes this goal by promoting competition and deregulating where appropriate. First, H.R. 3636 opens up local exchange telephone service to competition.

By opening up the local loop, H.R. 3636 brings an end to monopolies in the local telephone market. Consistent with this action, the bill also declares an end to monopoly regulation by mandating the abolition of rate-of-return regulation for local telephone service.

H.R. 3636 also achieves competition in the video marketplace by permitting telephone companies to provide video programming within their service areas. The bill also encourages the development of a vibrant video programming market in other ways. For example, the bill gives broadcasters the flexibility to use their assigned spectrum in a variety of ways.

Finally, the bill encourages access to the information superhighway to all program providers on reasonable terms and conditions. The bill also seeks to promote the provision of advanced telecommunications services to all Americans seeking such services.

Mr. Speaker, this bill is an example of the kind of legislation the American

people expect us to pass. From the very start, the complicated issues underlying this bill were addressed in a bipartisan and orderly manner. The Subcommittee on Telecommunications and Finance, under the leadership of Chairman MARKEY and Congressman FIELDS held seven hearings, receiving testimony from over 50 witnesses. The subcommittee and full committee examined over 200 amendments.

Through bipartisan cooperation, this bill was reported unanimously out of the Energy and Commerce Committee on a 44-to-0 vote. This vote reflects the hard work put in by Chairman DINGELL, Chairman MARKEY, Congressmen FIELDS, OXLEY, BOUCHER, and others in drafting the bill and perfecting it during the committee process.

Mr. Speaker, for all these reasons, I urge my colleagues to join me in supporting H.R. 3636.

□ 1350

Mr. MARKEY. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. BOUCHER].

Mr. BOUCHER. Mr. Speaker, with the passage of these bills we will enact the largest reform in telecommunications law and policy in the 60-year history of the 1934 Communications Act.

One of our goals is to bring competition to industries that are now monopolies.

Telephone companies will be free to offer cable TV inside their telephone service territories.

Cable companies and others will be granted the right to offer local telephone service, bringing to consumers the same choices in local telephone services that they have today with long distance.

The Brooks-Dingell measure will make noncompetitive the markets for more long distance and the manufacture of equipment.

This new competition will produce tangible benefits:

Consumers of Cable TV and telephone services will receive the benefit of better prices set by a competitive market.

The nation will receive the benefit of a vastly improved network, as telephone and cable companies deploy fiber optic lines, other broadband technology and more capable switches to facilities the simultaneous offering of voice, television and data over the same lines.

And this is the means by which we will obtain deployment in the Nation of the world's most modern network. The rational information infrastructure will be deployed not through the expenditure of government funds but by giving private companies the business reasons to put new networks in place.

The legislation we will pass today provides those business reasons. It brings down the barriers that have preserved monopolies and inhibited competition.

The result will be an avalanche of new business investment, as communications companies install new networking technology to bring entertainment, information, and new business opportunities to homes and offices throughout the Nation.

Another of our goals is to preserve the concept of universal service, the structure of which is threatened as competition comes to local telephone service. By imposing a proportionate universal since funding responsibility on all local telephone competitors, we sustain for the future a proud American tradition in which 96 percent of our citizens have local telephone service.

A third important goal is to create a fair and level arena for all communications companies. We are freeing television stations to offer voice and data as well as TV services. We encourage wireless technology as a full participant in the provision of multimedia services, and we create a fair pale attachment rate equally applicable to all competitors.

I have been honored to work with the members of the Telecommunications Subcommittee in creating these reforms. I particularly want to commend the gentleman from Massachusetts, [Mr. MARKEY] for his leadership, guidance, and persistence. It is not easy to create a broad consensus involving issues of this complexity, but he has presided over a highly constructive process that has achieved that goal.

I also want to commend my friends JACK FIELDS and MIKE OXLEY for their excellent work. The superb bi-partisan cooperation which they have provided is yet another reason that the Energy and Commerce Committee is so successful in crafting for reaching reforms that come to the floor without controversy.

For 3 years, Mr. OXLEY and I have worked to remove the barriers to competition in the cable TV industry, and as we pass the bill which accomplishes that result, I thank him for his splendid cooperation.

Mr. Speaker, I am pleased to cosponsor these constructive reforms and to urge their passage by the House.

They will create millions of jobs, stimulate billions of dollars of investment, and bring to the United States the world's finest communications network.

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

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

Mr. MARKEY. Mr. Speaker, section 107 of H.R. 3636 amends the Pole Amendment Act (47 U.S.C. 224). This amendment is intended to ensure that all attachments bear an equitable share of the costs of a pole or conduit. In its current form, however, the formula mandated by section 107 requires more than a proportionate share of the

costs from those who are not owners or co-owners of the poles and conduits. I would like the agreement of the ranking minority member of the Telecommunications Subcommittee and the gentleman from Virginia to work with me to fashion an amendment that reflects this distinction.

Mr. FIELDS of Texas. Mr. Speaker, will the gentleman yield?

Mr. BOUCHER. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. Mr. Speaker, I would be pleased to work with the chairman. As currently written, the pole attachment language of H.R. 3636 could triple or quintuple the pole attachment fees paid by cable operators when they begin to offer telecommunications services. Such a result is not only inequitable, it will discourage operators from constructing and operating telecommunications facilities. I am confident we can devise a means of preventing this outcome while ensuring that the owners of poles and conduits are adequately compensated for use of their facilities.

Mr. BOUCHER. Mr. Speaker, I would say to the gentleman from Massachusetts and the gentleman from Texas that I am pleased to join with them in revisiting the pole attachment provisions. While I am reserving judgment as to the substance of the matter, I will be pleased to work with them in crafting some modification of the current provisions.

Mr. FIELDS of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. OXLEY], a Member who has worked very hard on this particular piece of legislation.

Mr. OXLEY. Mr. Speaker, I rise today in strong support of the National Communications Competition and Infrastructure Act of 1994. As Members know, this legislation will accelerate the construction of the information superhighway. It will promote competition in local telephone by allowing cable companies to provide telephone service, and will promote competition in the cable industry by enabling telephone companies to offer video services. I want to praise Chairman MARKEY, Congressman FIELDS, and every member of our Energy and Commerce Subcommittee on Telecommunications and Finance for the long hours of work they put into crafting this legislation.

What makes this significant legislation possible is the clear consensus which has emerged in favor of competition, deregulation, and entrepreneurialism. The approach that this measure takes toward the development of the telecommunications supersystem is one that I have endorsed for years. By lifting market-entry prohibitions and reducing government regulation we will ensure that American consumers are served with the most advanced telecommunications system in the world. Equally important, I am

confident that by providing competition in the video service industry, this measure will give consumers the cable rate relief that the 1992 cable act did not.

I would like to add that while advancing private competition and deregulation are traditionally Republican themes, I was joined in my early efforts to promote this approach by a clear-thinking Democrat, the gentleman from Virginia, [Mr. BOUCHER].

Mr. Speaker, what this measure seeks to do is end the virtual monopolies that exist in the video programming and the local telephone markets. It is revolutionary legislation, and I urge all my colleagues to support it.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I rise today in support of H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1994.

This bill, and its companion, H.R. 3626, represents the critical push we need to bring jobs, innovative technology, and services to Oklahoma and the Nation well into the next century. The growth and implementation of the national superhighway bodes well for the citizens of my State, where we expect to gain a healthy share of the 3.6 million newly created high-skill, high-wage jobs, a broad selection of consumer, telemedicine, and educational services for rural areas, and the ability to export Oklahoma-made goods to world markets in the future.

The National Communications Competition and Information Infrastructure Act builds upon principles that I have promoted since we began hearings on the bill. These essential elements include a commitment to universal service for all Americans, whether rural or urban, development of networks that are open and reliable, proper cost allocation between consumers and competitors, and effective FCC enforcement.

The importance of giving all Americans access to the information highway, and the host of educational, health, economic, and quality of life benefits it will provide, cannot be understated. As a nation, and a government, we must not bestow the benefits of the information highways on some, and deny others, just because they live in out of the way places or in poor urban neighborhoods. Our work on this issue must be done with great care and compassion, for real social disruption could result if we do our job poorly.

In listening to the debate over how to provide and upgrade universal service in a rapidly changing telecommunications environment, I developed three core principles for evaluating the proposals before us. First, to echo title I of the 1934 communications act, all the people of the United States must get

service at a reasonable charge. Second, the quality of the service must be available to all on equal basis, regardless of geographic location or economic station. And third, the service must be provided in a prompt fashion to all citizens—no area of the country should be left off the information highway for any length of time.

The bill before us today is a good starting point for addressing the principles I have raised. On several key issues, however, such as the definition and the funding of universal service, the bill gives basic authority for these decisions to a Federal-State Joint Board. I have some concerns about delegating such broad authority for such essential issues to this Board, and I will be looking forward to overseeing the progress in these areas.

Along these lines, I am pleased to note that the bill contains specific provisions to ensure rural areas are not left behind as the private sector moves forward to deploy new technology to consumers. As drafted, the exemptions allow the Commission to apply initially equal access and interconnection requirements specifically to rural providers only when they would not be unduly burdensome and economically unfeasible. We recognize in this legislation something that rural telephone and cable consumers in Oklahoma have known for a long time: that new entrants to a market often face tremendous obstacles if they must compete against an entrenched service provider. The goal of this rural package is to encourage competition in these markets so that residents get new services quickly and at lower prices.

It is important to remember that the future cost of our national infrastructure should not be borne by rate payers who remain captive to regulated industries. People who want only a Chevy should not have to pay the cost of a Cadillac. Certainly, consumers with new demands for upscale, integrated services expect to bear the proper and equitable cost of such services if they select them. Moreover, providers that use the telecommunications network to reach their consumers should pay for all the direct costs such services incur, as well as a reasonable share of the joint and common costs of the network. The bottom line is this: as technology advances, we are clearly going to encounter a declining cost industry, and the appropriate savings from these efficiencies should be reflected in a consumer's phone bill.

We ensure this goal by providing specific language in the legislation prohibiting cross subsidization between a common carrier's telephone exchange service and a common carrier's other nonregulated activities and investments. Cross subsidization occurs when a telephone company uses revenues derived from captive ratepayers to subsidize the company's nonregulated

business ventures. The effect of this practice is twofold: the cost of service to ratepayers increases and the telephone company's nonregulated business ventures receive a comparative competitive advantage over their rivals in those businesses.

However, it is difficult for regulators to properly enforce these cross-subsidy prohibitions without making sure a rigorous cost allocation scheme is in place. Unless, and until, the costs incurred by the telephone company are properly allocated between the regulated entity and the nonregulated entity any cross subsidization regulation cannot be effectively enforced. My amendment, offered and adopted in full committee, puts real teeth into the original cross-subsidy prohibition by including cost allocation language that empowers the FCC to audit telephone exchange providers to make sure that consumers are fairly charged for the services they receive.

Enforcement of any regulatory structure rests on the ability of the agency in charge to get the job done. That is why I also offered, and the full committee adopted, an amendment to ensure that the FCC can use its authority given under the 1993 budget act to collect fees from the industry it regulates and target them to augment the FCC's sorely understaffed auditing, rule-making, and legislative review functions. The estimated cost for the FCC's implementation of H.R. 3636 is \$44 million in 1995, and up to \$30 million each year thereafter. This amendment will enable the Commission to get a head start on defraying its administrative costs upon enactment, so that taxpayers aren't solely responsible for bearing these expenses.

Finally, Mr. Speaker, we must remember that a locked door without a key cannot be opened and the opportunities inside cannot be enjoyed. Universal service, proper cost allocation, and effective enforcement are the keys to the information highway for all Americans. I look forward to reaching these goals as we move forward on final passage of the legislation in this Congress.

Mr. FIELDS of Texas. Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Speaker, I rise in support of the bill and especially want to thank the committee for their protections for the deaf and the hard of hearing section that is included in the bill.

Mr. Speaker, I rise in support of H.R. 3636 and H.R. 3626, legislation which will establish new telecommunications policy for our Nation and help move our Nation forward into the 21st century. Congressmen DINGELL, BROOKS, FISH, MOORHEAD, and FIELDS are to be commended for their efforts to forge compromise legislation which will increase competition within the telecommunications industry and which will bring new goods and services to consumers across our country.

These bills contain necessary policy reforms that are required to bring our Nation's telecommunications policy up to date with both the changing technologies and the changing marketplace. Both the technologies and the marketplace have completely bypassed existing telecommunications policy to the detriment of our Nation's economy and to our constituents.

In addition, I note with particular interest the support of the disabled community for these measures. I commend the authors of this legislation for requiring that Bell Company manufactured equipment and advances in network services be accessible to people with disabilities as outlined in section 229 of H.R. 3626. Title IV of the Americans with Disabilities Act has made the voice telephone accessible to people who are deaf or hard of hearing through the establishment of telephone relay services. And H.R. 3636 assures that individuals who are deaf will enjoy more complete access to cable programming, as much more of it would be captioned. Gallaudet University's Mark Goldfarb and Dr. Margaret Pfantstiel of Metropolitan Washington Bar testified that these access provisions are long overdue.

I agree and urge my colleague to support provisions that, like those in H.R. 3626 and H.R. 3636, provide deaf and blind Americans the equal access they deserve.

Mr. FIELDS of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Speaker, as an original cosponsor of H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1994, I rise in support of this legislation. In a nutshell, this legislation has two major objectives: First, to open up the local telephone loop within 1 year to enable new entrants to compete for local exchange service with the incumbent telephone companies and, second, to permit cable and telephone companies to compete in each other's business.

This bill reflects not only good public policy, but also the commendable efforts of our colleagues Chairman MARKEY and ranking Republican member, Mr. FIELDS, to achieve what has been appropriately described by some as the "impossible dream."

As the legislative process proceeds, we need to remain vigilant to ensure that all industries will be able to fully compete with each other as quickly as possible and with the fewest regulatory constraints. Where regulation occurs, it should be equivalent regulation so that every player is required to be regulated in a similar manner as they strive to gain market share from the other. We should guarantee that asymmetrical treatment of new entrants in the marketplace is eliminated.

Finally, Mr. Speaker, I believe that America is standing on the brink of a new information age. At stake today is whether our constituents—individual consumers—are allowed to enjoy the fundamental benefits of enhanced

choice and access. Accordingly, I urge my colleagues to vote "yes" on H.R. 3636.

□ 1400

Mr. MARKEY. Mr. Speaker, I yield 1½ minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, today I rise in support of H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1994. This comprehensive piece of legislation has been a long time in the making and it is rewarding to see it come to floor with such bipartisan support. I congratulate our colleagues on both sides of the isle for keeping their focus on the merits of this legislation. We are on the verge of entirely new industries and ways of communicating. H.R. 3636 points us in the right direction.

I am proud to have played a part in the evolution on this monumental legislation. The process that has brought this bill to the floor has been receptive to many important concerns. From universal service to public access, H.R. 3636 addresses the abundance of concerns relative to delivering telecommunications services. I am particularly pleased that H.R. 3636 addresses specific concerns with regard to rural areas, minorities, information redlining, programming access, and public, educational, and governmental access.

Rural issues are of great concern to me and I was pleased to support provisions to ensure universal service and infrastructure sharing for rural telephone companies. A progressive universal service plan is necessary to ensure that all Americans have access to the information superhighway and I am hopeful that all New Mexicans and Americans will soon be the beneficiaries of competition in the local telephone market. The costs associated with upgrading telecommunications systems to offer enhanced services is prohibitive for many smaller telephone companies and cooperatives. I am pleased to have supported an infrastructure sharing provision which will allow smaller entities to access the services of larger telephone exchanges.

I was pleased to include provisions regarding equal employment opportunities and information redlining. Minorities are seriously lacking as participants in the telecommunications industry. Today H.R. 3636 has language that would hold telephone companies that would hold telephone companies that would hold telephone companies to the same EEO standard as cable operators must now abide by. I think this is a small but important step toward equalizing the telecommunications playing field. As new telecommunications systems are built, an issue which will of continuing concern will be access, for all Americans, to new services. H.R. 3636 addresses my concerns regarding information redlining. The ability of providers of new services to discriminate

against specific geographic areas on the basis of race or economic status is too great. I am pleased that the committee took a progressive step and made explicit that the FCC must take into account the demographic makeup of the proposed area to receive new services.

Cable television plays an important and growing part of the information superhighway. It is imperative that the legislation provide for a competitive marketplace for small cable operators. Small cable operators provide services to small populations in remote areas which larger operators have no commercial interest in serving. I am pleased that this legislation contains several, important provisions to provide for a competitive marketplace for small cable operators. For example, the legislation would preempt State and local barriers for new telecommunications services, prohibiting local government entities from over-regulating cable's provision of telecommunications services. H.R. 3636 also allows for joint ventures, mergers, and acquisitions to occur in areas with populations of less than 10,000, or when a cable system serves less than 10 percent of the households in a telephone company's service area. While such provisions are a step in the right direction, I hope that additional issues will be addressed in the legislative process. For instance, franchise requirements for providers of cable services must be balanced so that everyone plays by the same rules. Additionally, interconnection and access requirements must be ensured so that small cable operators have fair and equal access to the information highway.

Lastly, I am pleased that H.R. 3636 addresses public, educational, and governmental concerns. If the information superhighway is going to serve our democracy then it is critical that these institutions have access to reach all Americans.

Again, I support this legislation and I urge my colleagues to do likewise.

Mr. FIELDS of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Colorado [Mr. SCHAEFER].

Mr. SCHAEFER. Mr. Speaker, I rise today in support of H.R. 3636, the National Communications Competition and Information Infrastructure Act.

When my constituents in Colorado need a telephone line, there is only one company they can call to provide that service. When my constituents want cable service, again, there is only one company to provide it.

The consumer choice of all Americans is limited in the telecommunications market today. But that choice is not limited by technology. It is limited by outdated laws and regulations that were designed over the last 60 years.

For instance, in most States, it is illegal for anyone to provide an alternative to the phone company.

H.R. 3636 clears the way for competition—and thus more choice, lower prices, and better service—in all segments of the telecommunications marketplace.

By sweeping away the laws that prevent competition in both the local telephone and cable market, H.R. 3636 paves the way for the next generation of advanced telecommunications networks. This is truly a revolutionary bill and I urge all my colleagues to support it.

Before I finish, Mr. Speaker, let me also briefly address one aspect of H.R. 3636, the Dingell-Brooks legislation to lift the MFJ restrictions, which was just debated.

While I supported this legislation in committee and here on the floor, I strongly believe that the so-called domestic content provision of this legislation needs to be stricken from the bill at some point in the legislative process. I know keeping jobs in America is an emotional issue, but violating our free-trade agreements is not only bad policy and bad economics, it is also bad for American workers in the long run.

These bills show the great work that we on the Energy and Commerce Committee can and will do.

Again, please support H.R. 3636, the Markey-Fields bill.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Speaker, I would first like to commend, as other speakers have here today, the tremendous work that the chairman, the gentleman from Massachusetts [Mr. MARKEY], has done on this legislation, and the chairman, the gentleman from Michigan [Mr. DINGELL], and the ranking minority member, the gentleman from Texas [Mr. FIELDS]; all of you have done tremendous work on this, and you deserve all the kudos you are receiving here today.

Mr. Speaker, I rise in strong support of both of the bills that we are debating here today. These bills are truly essential to the construction of the Nation's information superhighway, this is landmark legislation.

Mr. Speaker, I am particularly pleased that H.R. 3626 would allow the regional Bell operating companies to get involved in manufacturing telephone equipment in this country. I introduced legislation 4 years ago, and it has taken us a long time to get to this day. I am pleased we are here. I think this legislation will create good paying jobs in this country.

I am also pleased that H.R. 3626 includes an amendment I offered to help thousands of community newspapers across the country have a better chance to get on board the information superhighway. The National Newspaper Association believes this legislation is critically important to the future of

many small-town community newspapers. It is important because it guarantees them fair access and fair rates when accessing the information highway.

This legislation gives them nothing less than a license to their future. Without it, they could be ignored or actually driven off the information superhighway. These newspapers often provide the social, political, and economic ties that bind communities together. Many are going through tough times. They face competition and disappearing ad revenue. Now, at least, they can face the electronic future with confidence that if this bill becomes law they can compete for their fair share.

Mr. Speaker, in addition, in keeping with the spirit of the Americans with Disabilities Act mandate to bring about the complete integration of individuals with disabilities into the mainstream of our society, H.R. 3636 and H.R. 3626 would ensure that advances in network services deployed by local exchange carriers are available to all our citizens.

Mr. FIELDS of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. McMILLAN].

Mr. McMILLAN. Mr. Speaker, I rise in support of H.R. 3636. Along with H.R. 3626. This legislation lifts the restrictions that have long blocked a diverse competitive telecommunications industry. Not only will the competition reduce prices, enhance quality, and offer broader choices for the American consumer, it will create the incentives for industry to finance and build the information highway of the future.

That is the purpose of H.R. 3636: "to make available a switched, broadband communications network." And I commend Chairman MARKEY for including an amendment that directs the FCC to collect information on the rate at which this network is deployed. This will allow policymakers to make sure that the intent of Congress is being achieved.

Toward this goal, I do have a concern with the antibuyout provision in H.R. 3636 which will slow down the creation or a competitive marketplace and the construction of broadband network. By prohibiting telephone company acquisitions of cable companies in their respective territories, this bill will deter the natural convergence of voice and video technology and thereby slow the creation of a multimedia, interactive system that could potentially bring a host of combined services to the public. If H.R. 3636 adequately ensures that all program providers will have access to a telephone company's video platform, do we really need an antibuyout provision to guaranty competition—a provision that may, in fact, impede progress. I hope this can be worked out in conference.

Overall, however, I strongly support H.R. 3636 as a full step toward the completion of the information super-highway and the creation of its competitive marketplace.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Washington [Mr. SWIFT].

□ 1410

Mr. SWIFT. Mr. Speaker, I am proud today to say that ED MARKEY and JACK FIELDS are my friends, because today anyone who is a friend of these two gentlemen is going to bask in the reflected glory of this magnificent accomplishment, bringing this very progressive piece of legislation to the floor.

The time has come to update the 1934 Communications Act to recognize new realities and technology and competition, and this bill does that.

I am pleased that the bill has incorporated an amendment to the public access provision that tightens the definition of eligible nonprofit institutions.

I want to thank the gentleman from Louisiana [Mr. TAUZIN] and his staff for their help in crafting this amendment.

As author of this provision, I did not intend to place unreasonable economic or technical burdens on carriers providing advanced telecommunications services, but I do expect that such carriers will make all necessary good-faith efforts needed to implement the goals of this provision.

Again, I commend this legislation to all of my colleagues. It is an outstanding piece of work.

Mr. FIELDS of Texas. Mr. Speaker, I yield 30 seconds to the gentleman from New York [Mr. PAXON].

Mr. PAXON. Mr. Speaker, I rise in support of H.R. 3636. Two years ago Congress took what I consider a step backwards by enacting the Cable Act, which through overregulation led to consumer confusion, increased paperwork burdens, and higher rates in some instances.

Fortunately, Congress has learned from its mistake and is now pursuing a policy of competition rather than regulation. Only by increasing competition in the local telephone loop and the cable industry will Americans see the private creation of an information super-highway. Competition will also provide consumers and business with new and innovative services and technology at a reasonable cost.

In conclusion, Mr. Speaker, I am pleased to support H.R. 3636, which will move the telecommunications industry from its regulated past into the competitive 21st century.

Mr. FIELDS of Texas. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Speaker, I commend the chair and ranking Republican on both the full committee and the sub-

committee for this outstanding legislation, H.R. 3636, and urge its strong support. I think it is a splendid accomplishment. It is seldom we have that much bipartisanship, and this committee has set a good example.

A number of us sent a letter to the chairman of the full committee expressing the concerns of local government. Mr. MARKEY's very fine reply where he reaffirmed the "local governments' rights to impose fees identical to the cable operator's fees on a telephone company's provision of video programming," was reassuring, my views on this legislation reflect a number of local governments such as the city of Los Angeles, Downey, Long Beach, and Signal Hill which are part of my congressional district.

Mr. Speaker, H.R. 3626, the Antitrust Reform Act, and H.R. 3636, the National Communications Competition and Information Infrastructure Act, represent the most sweeping telecommunications reform since the breakup of AT&T. What the House does today is to construct the structural framework for the revolutionary changes which have already begun changing the telecommunications field. The framework we erect today will provide for a level playing field so that competition can occur in a manner that benefits the everyday consumer while bringing new technologies into that same person's home. But passage of these bills does not mean that all pertinent issues have been resolved. Today's votes represent a means to move the process forward, so that we may send these bills to the President before the legislative session comes to a conclusion.

The issue in question, which is contained in H.R. 3636, primarily revolves around the treatment of municipal franchising authority and the new, possibly restrictive definition of cable services in the bill. In particular, I am concerned that the language of the amendments of Messrs. FIELDS and SCHAEFER that were accepted by the committee may have the unintended, and unfortunate, result of depriving our Nation's municipalities of badly needed revenue that they need to carry out the vital governmental duties they perform.

For instance, section 102(b)(2) of H.R. 3636 amends the franchise fee provision of the Cable Act to limit the revenue base on which franchise fees may be based to only those revenues an operator derives from providing cable services. According to current law, a franchising authority is entitled to 5 percent of all revenues derived from operations of a cable system. Because the term "cable service" is already defined in the Cable Act for purposes completely unrelated to its use in H.R. 3636, my concern is that section 102(b)(2) could be construed as restricting cable franchise fees only to the rev-

enues a cable operator receives from subscribers. That is a far narrower revenue base than the Cable Act currently allows, and would deprive municipalities of the many nonsubscriber revenues a cable operator earns, such as advertising and home shopping revenues. Many municipalities across the Nation are currently receiving, and relying on, franchise fees paid by operators that include such nonsubscriber revenues. I certainly hope that it is not the intent of this legislation to deprive our municipalities of funds they are currently receiving. This issue is particularly important, since nonsubscriber revenues are the fastest growing form of cable operator revenues.

I am also concerned that the language in section 102(b)(1) may be construed as preventing municipalities from securing the full benefits for the public of any new services that cable operators may provide. Many communities have negotiated franchises with cable operators under which the cable operator furnishes institutional networks for use by schools and local governments. These are valuable resources for our schools, our children, and our local governments. I certainly hope that it is not the intent of this legislation to forbid or preempt these arrangements.

The parity of franchise and other changes provision in section 102(a) also raises similar concerns. The drafters of this provision seem not to be aware that pursuant to applicable State law, many municipalities have issued franchises to telecommunications providers to use their local rights-of-way, and municipalities rely on revenue from those providers in their budgets. Once again, I hope it is not the purpose of this provision to deprive our already financially strapped municipalities of further revenues. There is an important question as to whether or not it is proper for the Federal Government to require local municipalities to allow private companies to use their valuable public rights-of-way for free.

In conclusion, these issues need adequate debate and consideration. I look to the product of the House-Senate conference for improvements and clarity on these issues. Finally, I am providing for the RECORD two documents. The first is a letter to Chairman DINGELL signed by myself and a number of my California colleagues. It raises a number of these issues. The second is the response to that letter by Chairman MARKEY.

HOUSE OF REPRESENTATIVES,
Washington, DC, June 23, 1994.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce,
House of Representatives, 2125 Rayburn
House Office Building.

DEAR MR. CHAIRMAN: City and county governments in California have successfully franchised cable television according to the provisions of the Cable Act for many years. We are concerned that H.R. 3636 does not

contain a similar franchise requirement for telephone companies wishing to offer cable services and urge that you include such a provision as an amendment to H.R. 3636 when it comes before the full House for consideration.

The public rights-of-way, owned by local governments on behalf of local taxpayers, are worth billions of dollars and should be controlled by the city and county governments which build, own and maintain them. As the Cable Act requires, the best way to do this is to subject a provider of cable service to the franchise requirement. The telephone companies (telcos) which want to offer cable need to be covered by a franchising process at the local government level. Local governments want nothing more and nothing less than what they currently have in their relationship with the cable companies.

We also urge that H.R. 3636 be amended to remove provisions that restrict the right of local government to control local rights-of-way and to collect appropriate compensation for the use of such rights-of-way. In particular, we are concerned with the provisions that: (a) strip local governments of the right to ensure telecommunication providers use public rights-of-way in a safe and reasonable manner and pay appropriate compensation for that use; and (b) limit the right of local governments to impose cable franchise fees on the provision of telecommunication services over a cable system, and to ensure that provision of such services are consistent with the public interest.

Local governments in California are eager for competition to traditional cable operators and the development of new telecommunication services, but want to be able to control the rights-of-way and ensure that competition is done on a level playing field. City and county officials and the members of the California delegation want to see the information superhighway built. Local governments should receive reasonable compensation for the use of public assets, should be able to ensure that transportation is not disrupted, and guarantee that the needs of the entire community are served by the new information superhighway. It is important that the new information superhighway fits the needs of the local community which it serves rather than simply the desires of the telephone, cable and telecommunications industries.

Thank you for your consideration in this matter.

Sincerely,

Pete Stark, M.G. Martinez, Ronald V. Dellums, Stephen Horn, Lynn Woolsey, Nancy Pelosi, Don Edwards, George Miller, Tom Lantos, Dan Hamburg, Julian C. Dixon.

COMMITTEE ON ENERGY AND COMMERCE, SUBCOMMITTEE ON TELECOMMUNICATIONS AND FINANCE,

Washington, DC, June 27, 1994.

Hon. STEPHEN HORN,

1023 Longworth House Office Building,
Washington, DC.

DEAR STEVE: As sponsor of H.R. 3636, and as Chairman of the Telecommunications and Finance Subcommittee, I would like to take this opportunity to address the concerns you and several colleagues raised in a letter to Chairman John Dingell dated June 23, 1994. The letter addressed the role H.R. 3636 accords the cities in regulating telecommunications services.

The letter raised three major concerns with the provisions of H.R. 3636 that affect local governments' jurisdiction. The first

was a concern that H.R. 3636 would "strip local governments of the right to ensure telecommunication providers use public rights-of-way in a safe and reasonable manner * * *." While this may well have been a concern with earlier drafts of H.R. 3636, the version of H.R. 3636 that will be voted on by the full House this week includes express language that reaffirms cities' jurisdiction over all activity that affects their rights-of-way. Authority over public rights-of-way is crucial to local governments and is effectively preserved in the bill.

The second concern raised in your letter was with the bill's "limit[ation] of the right of local governments to impose cable franchise fees on the provision of telecommunication services over a cable system * * *." This is a question that has caused some confusion in recent months. First, H.R. 3636 actually affirms local governments' rights to impose fees identical to the cable operator's fees on a telephone company's provision of video programming. Local governments do not currently have this authority and some have complained that telephone companies have refused to pay such a fee. Requiring that telephone companies pay equivalent fees puts them on precisely the same footing as cable companies in their future competition for cable subscribers.

H.R. 3636 does not, however, require cable companies to pay franchise fees on telephone services. Cities have never had the power to impose such fees on telephone companies. For the past 60 years, states and the federal government have traditionally been the primary regulators of telephone service. H.R. 3636 ensures this will continue to be the case, both for telephone companies and cable companies. If this were not so, as you seem to recommend, telephone companies would have an inherent, governmentally-mandated advantage over cable companies that wish to compete for their telephone customers.

Finally, you state your concern that H.R. 3636 does not give local governments a franchise over telephone companies' provision of cable service. The reason H.R. 3636 does not do this is because of the fundamental difference between the architecture of telephone networks and cable networks. Cable systems grew up as a local service within discreet communities. They typically do not extend beyond municipal boundaries nor do they typically interconnect with other systems within a state or region. In contrast, telephone systems have developed into statewide or regional networks. To require telephone companies to restructure their networks in order to respond to each community's requirements would effectively Balkanize today's regional networks, raising costs to consumers and delaying the arrival of new, advanced services.

Instead of imposing a franchise, H.R. 3636 imposes a wide range of requirements on telephone companies that closely track requirements that are currently imposed on cable companies. For example, H.R. 3636 assures local governments of: (1) the functional equivalent of a franchise fee (up to 5% of video revenues); (2) public, educational and governmental access channels similar to those available on cable systems; (3) authority to enact consumer protection and customer service requirements; (4) oversight authority over the ownership of local video programming networks in certain situations; and, (5) authority to enact local privacy laws consistent with federal law. In this way, local governments will continue to have significant influence over telephone companies, provision of video without forcing them to restructure their networks.

It is important to point out that H.R. 3636 contains important safeguards and authorities for local governments that they do not currently enjoy. The Subcommittee office has been contacted by cities who have requested exactly these kinds of powers to help them in their dealings with powerful telephone and cable companies. If H.R. 3636 is not passed this year, cities will have little protection for the foreseeable future from telecommunications providers who have no statutory obligations vis-à-vis local governments.

Even though the provisions of the legislation do not coincide perfectly with some of the recommendations of local governments, H.R. 3636 represents a balanced, comprehensive telecommunications policy framework that should meet local governments' needs for the foreseeable future. As the 44-0 vote in the Energy and Commerce Committee indicates, there is a broad consensus in the approach this legislation takes. Passage of H.R. 3636 will be a vital and important step toward accelerating the development of the national information infrastructure and considerably increasing franchise fees available to local governments, while ensuring a competitive telecommunications marketplace that will benefit all Americans. Please feel free to contact me with any further concerns or questions about this important legislation.

Sincerely

EDWARD J. MARKEY,

Chairman.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 3636. One thing which directly affects new investment and jobs creation is the perception of fairness. Companies don't invest, they don't create new jobs with a future when they are not sure the Government will treat them fairly. So, one thing we in Congress always need to do is stress the fact that we are all committed to fairness, and we also expect regulatory agencies such as the Federal Communications Commission to be fair, too.

That is important because there are some unanswered questions presented by this bill. For instance, it is not clear that telephone companies competing with cable TV will have the same flexibility the cable companies now enjoy. It is also not clear that if the cable companies chose to go into the telephone business, they will bear the same universal service obligations which we have placed on the phone companies.

Key provisions of H.R. 3636 could be construed as justification for tilting the playing field. And, the problem with that isn't just fairness—rather, it is also the potential negative effect that could have on future jobs creation and investment.

I want to review each and every such provision of H.R. 3636, but, I do think it is important for Congress to make clear to the regulators as well as the investment community that it wants regulation to be fair and evenhanded here.

We do not want to have the sort of situation develop where cable companies have a great deal of pricing flexibility, but phone companies trying to compete with them do not. We want both to face basically the same regulatory options.

In short, we want both the perception and the reality of fairness, because that's key to new investment and jobs creation, and delivering the competition American consumers want and expect.

Mr. FIELDS of Texas. Mr. Speaker, I yield 30 seconds to the gentleman from Tennessee [Mr. QUILLEN].

Mr. QUILLEN. I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of H.R. 3636, and I encourage my colleagues to vote for it. The bill that was just discussed prior to H.R. 3636, that is, H.R. 3626, I support that and urge my colleagues to vote for it. I congratulate the chairmen and the ranking members of both committees for bringing this much-needed legislation to the floor of the House. Our information highway system will be greatly improved as a result of the passage of these measures.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I thank the gentleman for yielding this time to me.

Chairman MARKEY, I first would like to commend you, along with the distinguished gentleman from Texas, [Mr. FIELDS] and the Telecommunications and Finance staff for the hard work and long hours you have all spent crafting this legislation and moving it expeditiously to the floor today. Your earnest efforts have resulted in a bill that, while not flawless, certainly will help pave the roads of the information superhighway with increased competition and assist in promoting greater economic opportunities for more Americans as we head into the 21st century.

I am particularly pleased that the bill before us contains interoperability language that I supported and Mr. MARKEY agreed to include in his en bloc at the full committee markup of this legislation. This language will provide many new manufacturers, who do not provide subscription services, with the ability to offer telecommunications equipment or hardware to consumers, expanding consumer choice, and enhancing competition.

In reflecting on the momentous changes occurring virtually every day in the telecommunications arena, I find it absolutely astounding that a little over 100 years ago, in my city of Chicago, the first multiple telephone switchboard in the Nation was being installed. Just as we in Congress look forward to the day in the near future when all homes, businesses, schools, and hospitals are linked by networks that will provide groundbreaking serv-

ices such as telemedicine as a matter of course, so too were the community leaders of Chicago in 1879 anticipating the tremendous benefits that eventually came from the expanded deployment of telephone service throughout their region of the country.

Yet in looking forward to the opportunities presented by emerging technologies, we cannot disregard the lessons of the past and the hurdles we still face in ensuring that everyone in America plays a part in the communications revolution now underway. I refer to the well-documented fact that minority and women-owned small businesses continue to be extremely underrepresented in the telecommunications industry.

The statistics speak for themselves. The cellular telephone industry, which generates in excess of \$10 billion a year, has a mere 11 minority firms offering services in its market. Overall, barely 1 percent of all telecommunications companies are minority-owned. Of women-owned firms in the United States, only 1.9 percent are involved in the communications field.

The two amendments which I offered and were adopted by the full committee will go a long way toward leading to the diversity of ownership in the telecommunications marketplace. The first amendment will require a rule-making on the part of the Federal Communications Commission, after consultation with the National Telecommunications and Information Administration, on ways to surmount barriers to market access, such as undercapitalization, that continue to constrain small businesses, minority, women-owned, and nonprofit organizations in their attempts to take part in all telecommunications industries. Again, underlying this amendment is the obvious fact that diversity of ownership remains a key to the competitiveness of the U.S. telecommunications marketplace.

My second adopted amendment which is intended to increase the availability of venture capital and research and development funding for both new and existing small, women, and minority-owned companies will require all telecommunications providers to annually submit to the FCC their clear and detailed company policies for increasing procurement from business enterprises that are owned by minorities and women in all categories of procurement in which these entities are underrepresented. The FCC would then report to the Congress on the progress of these activities and recommend legislative solutions as needed.

As an aside, I am hopeful that when the FCC adopts its final licensing rules tomorrow for small business, minority, and women-owned firms to participate in auctions of broadband radio spectrum for a new generation of wireless technologies, known as personal com-

munications services or PCS, it understands that this Member of Congress is watching closely to see that the goal of diversity of ownership in PCS is sufficiently advanced.

Hopefully, however, with several of the targeted provisions included in this bill, we can begin to eradicate the inequities present in the telecommunications arena and ensure that minorities and women are drivers, not simply passengers, in the superhighway fast lane. Too often in the past, these groups have been left standing on the shoulder, only to watch the big guys and gals motor down the road past them.

While my measures do not completely solve the long-standing problems that confront so many forgotten entities and enterprises in our communities, their inclusion in H.R. 3636 ensures that minorities and women will have a strong role in the fantastic industries of the future as both users and providers of services. Because of this, we all stand to benefit.

I strongly urge my colleagues to support H.R. 3636.

Mr. FIELDS of Texas. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. I thank the gentleman for yielding this time to me.

Mr. Speaker, as mayors across this country have indicated, the U.S. Conference of Mayors, the National League of Cities, they are concerned about this legislation and what it is going to open up, whether the local cable franchises can survive. They also have a stream of income from franchise fees and they have certain controls over programming that is required of the cable franchises.

My concern is that the newcomer, the telephone companies, would have those same controls. I would like to ask the gentleman from Texas these statements and inquire how he would address the concerns of the mayors across this country.

Mr. FIELDS of Texas. Mr. Speaker, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Texas.

Mr. FIELDS of Texas. I thank the gentleman for yielding to me.

Mr. Speaker, I would agree this legislation does not prejudice the cities to assess franchise-like fees on telephone companies when they offer cable service. Additionally, cities clearly retain control over the streets, should they adequately let cable, telephone and other providers lay their networks in the ground. Further, telephone companies would, under this bill, comply with the peg requirements, broadcast of public education and local Government programming.

Mr. SHAW. In other words, there is clearly a level playing field and that there is no undue advantage given to telephone companies under this legislation.

Mr. FIELDS of Texas. Yes.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentlewoman from Arkansas [Ms. LAMBERT].

Ms. LAMBERT. I thank the gentleman for yielding to me. I rise today in strong support of H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1994.

As a freshman and recognizing the many years of work that have gone into a piece of legislation like this on an issue like this, I am certainly pleased and I appreciate the willingness of the chairman to allow me to take a role and to play a small part on behalf of rural communities and rural America.

I join my colleagues in thanking the gentleman from Massachusetts, Chairman MARKEY, of the subcommittee as well as Chairman DINGELL of the full committee, for all of their efforts on behalf of everyone in this Nation, making sure that rural communities are recognized in equal opportunity, as well as in fairness. A special thanks for their support in adding amendments to keep telephone rates in rural areas low and protect small and medium-size phone companies from unfair competition.

It was important to note, especially from the chairman of the subcommittee, that it was equally as important to him that service in Turkey Scratch, AR, was just as important as in Boston, MA.

So, my thanks to the chairman for his willingness to allow us to help in forming this bill and for rural America and a special thanks from those in Arkansas and all of rural America. This bill represents an amazing opportunity for advancements in education and in telemedicine, among other things.

The SPEAKER pro tempore (Mr. MONTGOMERY). The gentleman from Massachusetts [Mr. MARKEY] has the right to close the debate.

Mr. MARKEY. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. NEAL].

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Mr. NEAL of Massachusetts. Mr. Speaker, I take this opportunity to express my support for H.R. 3636, the National Communications Competition and Infrastructure Act of 1994 and for H.R. 3626, the Antitrust and Communications Reform Act of 1994. I have been closely involved with cable television issues for almost 20 years as a city council or, mayor, and now Congressman. It is clear at this point that major decisions need to be made to ensure that America continues to be the world leader in communications technology and service. These two bills will move Federal policy forward as we seek to create the best possible climate for our emerging communications future. I have long felt that we must al-

ways consider the consumer as we set cable television policy. H.R. 3636 is a solid consumer bill. If signed into law as currently written, this bill would: create positive competition for each cable household. While many cable subscribers are satisfied with their service, there are a great many areas, including my home city of Springfield, MA, where consumers have been greatly upset and confused by high rates and ever-shifting channels. The Cable Act of 1984 was designed to allow the cable television industry to grow and establish itself across the country. That has happened, but at a cost. The cable market monopolies have, unfortunately, led to high prices and poor service in some areas. The Markey-Fields bill encourages true competition by allowing telephone companies and others into the market. I believe the end result will be greater service selection and lower prices for the consumer, and hasten the arrival of the much-heralded "information superhighway." The information technology sector of the economy is poised to take off. H.R. 3636 will put into effect policies that will encourage the logical development of these new technologies and systems, and protect the role of local authorities as they seek to provide their citizens with the best possible cable television and telephone service.

Clearly these provisions are designed to foster the kind of competition that will benefit the consumer and America's position in the worldwide communications market. We have been a leader in this market; H.R. 3636 will help us remain a leader.

As for H.R. 3626, I believe this bill will also be a boost for the American consumer. The 1982 court case that created our current telephone system is out of date. This bill eases restrictions on true competition in the long-distance service sector. This bill is strongly supported by many disabled activists, educators, rural Americans, small business leaders and minority groups because of the opportunities that will open up if this measure is approved. It also will promote the development of new equipment and technologies as we build the information superhighway.

Both of these bills are the result of long and careful consideration. It is important that these steps be taken now, before we have a crisis in this flagship industry. I salute Chairmen MARKEY, BROOKS, and DINGELL, as well as Congressman FIELDS on crafting language that is logical, fair, and realistic. They are seeking to craft the future of communications as we head into a new century. I urge my colleagues to support both of these important measures.

Mr. FIELDS of Texas. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I just want to say to my colleagues that this is the most sweeping change since 1934, and I do not want

my colleagues to lose sight of that because we are coming up on suspension today. There will be more telecommunication development and deployment in the next 5 years than there has been this century, and I would like to think much of that is enhanced and speeded because of this legislation.

Again, Mr. Speaker, I want to compliment our chairman. I do not believe we would be here today in this fashion without the leadership of the gentleman from Massachusetts [Mr. MARKEY]. I also want to compliment the staff on both sides of the aisle who labored diligently to bring us to this point today.

Mr. Speaker, I yield the balance of my time to the gentleman from Georgia [Mr. GINGRICH], our future leader and our current minority whip.

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair recognizes the gentleman from Georgia for 2½ minutes.

Mr. GINGRICH. Mr. Speaker, I thank the gentleman from Texas [Mr. FIELDS] for yielding this time to me.

Let me say first of all that I think in this Congress this is one of the best days for the legislative process, and I think that people should realize that the gentleman from Michigan [Mr. DINGELL] and his colleague, the gentleman from California [Mr. MOORHEAD], the gentleman from Texas [Mr. BROOKS] and his ranking member, the gentleman from New York [Mr. FISH], and the gentleman from Massachusetts [Mr. MARKEY] and his ranking member, the gentleman from Texas [Mr. FIELDS], as a team developed two bills which are right here, H.R. 3626 and H.R. 3636, which are both landmarks in terms of the future of American jobs and the future of American technology, and they are also, I think, a tremendous case study in a good legislative process that is genuinely bipartisan. Here are very sophisticated, very complex and very technical issues in which Members of both parties subordinated their partisanship to the effort to understand what the marketplace and the technology made possible and to try to truly craft historic legislation. I think it is fair to say that this is, in the case of H.R. 3636, a dramatic break from 60 years. This is the new benchmark, and it was done the right way. It was done by constant consultation, by staffs working together and by dealing with some very difficult issues by very persistent negotiations.

Mr. Speaker, I think the result of these two bills taken together, and they will be joined together and go to, hopefully, the other body, and we will produce by the end of this session, I hope, a landmark legislation that will truly create an opportunity for more jobs in America. The result is going to open up the marketplace so that more entrepreneurs can try out more new

ideas to create more products, to build more jobs in America by delivering better services at lower costs to more people.

Now that is a remarkable accomplishment, and in the time that I have been in this Congress I do not know of many occasions where we have had as much bipartisanship, as much sophistication and as serious an effort to deal with very complex issues, and I simply want to commend both committees and the Members who worked on them, and I ask all of my colleagues to join in voting "yes" this afternoon on this historic opportunity.

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

The SPEAKER pro tempore. The Chair recognizes the gentleman from Massachusetts for 1½ minutes.

Mr. MARKEY. Mr. Speaker, a year and a half ago I sat up in the second last row, May 1993, and began a conversation with the gentleman from Texas about how we could fashion a piece of legislation that would be good telecommunications policy, good social policy, and good economic policy, and, beginning with that first conversation up in that back row of the Chamber, we proceeded not only speaking to ourselves, Mr. Speaker, but to other Members here in the Chamber and to hundreds of other interested parties across this country.

The legislation which we bring out here today is one which is going to open up enormous economic and technological opportunity for our country, not only to the well-known giants, the telephone companies and the cable companies, but in many ways, more importantly, to the software industry and computer industry of this country using the open architecture, set top box protections, which we build into this legislation so the fiberoptic networks which are going to be designed to the interactivity which is going to be constructed, to all of these technologies across this country, from the innermost neighborhoods of our country to the most distant, rural parts of this country, each and every American will be given access to these exciting technologies. It will be the most important part of the economy of this country in the world over the next generation.

With this legislation accompanying the Brooks-Dingell legislation, Mr. Speaker, we are going to lead this world and have an opportunity to capture a disproportionate share of the economic benefits. But at the same time we ensure that all Americans, poor, rich, rural and urban, all benefit from it, and we do it ensuring that the economic and social policies of our country continue to capture these technological advances.

I want to congratulate again my good friend, the gentleman from Texas [Mr. FIELDS]. I want to congratulate

my counsel, Gerard Waldron, with Colin Crowell, with David Moulton, Mark Horan who worked with Winnie Loeffler, with Kristan Van Hook, with Steve Popeo, with all the rest of our staff, Mike Balmoris, with David Zesiger, with Mike Regan and with Cathy Reid on the minority side, and I want to, as well, thank Sara Morris who is back and watching this right now. It would not have been possible without her. David Leach and Johnnie Roski did the same work on the other piece of legislation. They are to be congratulated.

Mr. CRAPO. Mr. Speaker, I rise today to speak about the many tough and complex issues being addressed in the area of telecommunications policy through H.R. 3636, the National Communications Competition and Information Infrastructure Act. There are several competing interests at play in this formula for emerging telecommunications policy. And I admire the efforts of Telecommunications Subcommittee Chairman ED MARKEY and Congressman JACK FIELDS for their work in weaving together a consensus that serves the public interest.

Six years ago in Idaho the legislature, of which I was Senator pro tem at the time, took a bold approach communications laws. There were doomsday predictions about how rates would skyrocket and competition would be choked off. But by adopting a more relaxed regulatory framework, Idaho created an environment conducive to the Information Age. And consumers have reaped benefits from it.

Basic telephone remain unchanged. Long-distance prices have been reduced several times. Numerous new products and services have been introduced. Competition is flourishing. And the State's communications infrastructure is leading edge. That was not accomplished by increased regulation but by relaxed regulation. In Idaho, we opened markets, provided pricing flexibility for competitive and optional services, and rate stability for essential services where competition has yet to take hold. Again, the results have exceeded expectations.

Today, I rise in support of H.R. 3636. We have taken a different path in this bill, however. With this legislation we have directed the Federal Communications Commission to make decisions on telecommunications competition issues. And what standard have we directed the Commission to use in making those competitive decisions? Not the public interest standard embodied in the 1934 Communications Act. Not a market standard—which would seem to properly focus on consumers.

Rather, at least in the area of interconnection, we stand ready to direct the FCC to abandon the public interest standard they have used for 60 years and replace it with a standard of technical feasibility. H.R. 3636 requires local telephone companies to connect competitors to their networks at any point technically feasible and economically reasonable. If our objective is competition, interconnection ought to be restricted to essential facilities. We should not legislate a standard that allows new communications entrants to piecepart the public network at their whim.

This legislation requires a telephone company to interconnect and unbundle its facilities

and prices virtually anytime and anywhere another company requests it. There is no mechanism in the legislation to insure the telephone company is kept whole, nothing that requires the company requesting the unbundling to withstand the economically reasonable cost. In fact, there's a strong likelihood that local telephone companies will attempt to recover some of their costs by raising local telephone rates. That is not in the consumers' interest.

Mr. Speaker, by abandoning the public interest standard, we are likely inviting protracted litigation and sharp price increases. I supported H.R. 3636 in committee and do so on the floor. But I hope that if the legislation goes to conference, we take another look at these overly regulatory issues, refocus on the public interest, and show faith in the marketplace.

Mr. STUDDS. Mr. Speaker, hardly a day passes that we are not exposed to a multitude of new reports about the information superhighway. While we are all aware of the critical necessity of ensuring the development of an advanced communications infrastructure in the United States, it is not always clear how we will achieve that goal.

Our colleagues, Mr. MARKEY and Mr. FIELDS, have provided us a blueprint for advancing the Nation's communications highway. Their bill, the National Communications Competition and Infrastructure Act of 1993, will spur the development of the information infrastructure by letting cable companies provide basic telephone service, and by permitting local telephone companies to offer video programming within their service regions—both of which are prohibited under current law. This competition will be essential to the widespread deployment of advanced communications services throughout the Nation.

What will that mean to our citizens? Nothing short of a dramatic improvement in the quality of their lives. Full cooperation in the communications industry will mean that a wider variety of services will be available in the marketplace. Senior citizens will be able to take advantage of a broad array of shopping services from their own homes. Students throughout the country will have access to educational resources from libraries and schools throughout the world. Health care providers will be able to examine patients at remote locations. And that's just the start.

Furthermore, intense competition within the communications industry will drive down the cost of new services, ensuring their affordability to all citizens. As we have witnessed, limited competition has resulted in sustained high costs for all but the very basic telecommunications services. U.S. consumers deserve better than that.

Mr. Chairman, I strongly support the goals of H.R. 3636 and applaud Mr. MARKEY, Mr. FIELDS and others who have worked so hard to develop this well-balanced legislation. I urge my colleagues to vote for H.R. 3636.

Mr. TAYLOR of North Carolina. Mr. Speaker, I want to commend Congressman MARKEY, chairman of the Telecommunications Subcommittee, and the ranking member, Mr. FIELDS.

This is a good bill. It is not perfect, but if it were perfect, it would not pass.

Mr. MARKEY, Mr. FIELDS, and their staffs are to be praised for their efforts.

They worked diligently with all interested parties to craft a bill that attempts to promote competition in the marketplace.

They know that competition will lead to establishment of an information infrastructure much more quickly than the Federal Government throwing dollars towards this effort.

The information highway will be a great accomplishment, allowing constituents in rural areas like mine to electronically communicate with libraries, hospitals, and museums—and even Members of Congress.

It will allow for video competition, where we get movies over the phone line. One day, we may be dialing up for all services we generally go out for—groceries, clothes, and more.

I don't know anybody who is against the basic objective of this bill—more competition, more choices, and more new services.

But I am concerned that some of the provisions in this bill could be construed to frustrate that goal.

Take all the new regulatory safeguards the bill contemplates.

Everyone agrees we need safeguards. We want to make sure there's fair competition.

But what if the Federal Communications Commission decides that all these safeguards have to be firmly in place before we can have any competition?

This could literally take years. And, all that time, the American public would be sitting there—waiting for the competition that Congress has promised.

I intend to vote for H.R. 3636 because it looks like the best package we can pass at the present time.

However, I also want to emphasize that I am doing so only because I have been assured that the FCC won't regulate to stymie competition.

The new chairman of the FCC, Reed Hundt, says that he's firmly committed to full competition.

Two years ago, we all voted to re-regulate cable TV.

We were told that re-regulation would result in lower cable TV rates and more choices.

Two years after the event, we are still waiting.

I don't want to be waiting for another 2 or so years before we get video competition.

We need that now.

Mr. MACHTLEY. Mr. Speaker, I rise in support of H.R. 3636, the National Communications Competition and Information Infrastructure Act of 1993. Today, it is time that competition in the cable industry is opened so that private as well as public industries can take part in the technological revolution that is changing the way the world does business. Passage of H.R. 3636 will trigger growth in the economy, which will allow the United States to remain in the forefront of technology and economic development.

H.R. 3636 will bring about a quicker and more efficient means of implementing universal service, which will provide resources and information to all Americans. By eliminating the restrictions in cable and local telephone industries, both private and public businesses will have the opportunity to provide services, resulting in more jobs for Americans and better quality of phone and video services, all at lower prices.

In addition, this legislation can provide unsurpassed benefits to the elderly and disabled by giving them easy access to resources and information. H.R. 3636 is good for the economy, good for society, and good for America's future. I urge all of my colleagues to vote for this important legislation.

Mr. KLUG. Mr. Speaker, as we are all aware, America faces new challenges in education. Growth in technology, competing world markets, and the changing perspective of the youth have created a need for an innovative way to thinking and acting in the educational arena.

This is why I give my support for H.R. 3626 and H.R. 3636. By eliminating the restrictions in the local telephone market, we can increase competition, increase technology, and provide students with the educational edge needed for success.

Inner-city, as well as rural students, increasingly find themselves isolated from a wide range of educational opportunities. H.R. 3626 and H.R. 3636 will change outdated policies to allow expanded access to global information, allowing everyone from the elementary student who lives in a disadvantaged neighborhood, to the university professor working on a cure for cancer, to have access to learning tools such as expanded databases, and electronic distance learning. This will in turn improve the quality of life, not only for them, but for all Americans. Yes, I support improving education in America. I support H.R. 3626 and H.R. 3636.

Mr. MCCOLLUM. Mr. Speaker, I rise today to express my support for H.R. 3636, but do so with a caveat that I hope that we in this Chamber will keep in mind for the future. Much of what we do in this bill is done in uncharted waters. The information age is new, and we in the Congress are just beginning to legislate in this area, so I offer a basic point.

H.R. 3636 is, to say no more about it, a complicated piece of legislation. To some degree, this is to be expected, but I must say that much in H.R. 3636 concerns me. The bill, in essence, allows the phone companies into the cable television business provided they build a super cable system and then throws in an array of regulations for good measure.

For my part, I would have favored a far less regulatory approach, but this bill is a first step—a fair compromise—and for that reason I will support it.

That said, I hope that we in this body, in the future, are careful not to overburden the phone companies with restrictions. The cable industry is an extremely tough business, and we must see to it that all who wish to participate in it do so on an even playing field.

Fortunately, H.R. 3636 does give the Federal Communications Commission some flexibility in this regard. It is my hope that it will be this discretion with an understanding of the peculiarities of the cable industry, and that they, and all those involved in the regulation of cable, will see to it that competition and choice are emphasized.

H.R. 3636 is a first step and on the whole a reasonable one. Now, Mr. Speaker, let us be certain that what issues forth from this step is not heavy handed regulation, but the beginnings of a new and dynamic marketplace.

Mr. BLUTE. Mr. Speaker, I rise to commend Mr. MARKEY and Mr. FIELDS for sponsoring

H.R. 3636, one of the most proconsumer and proeconomy bills to come before the 103d Congress.

The Markey-Fields bill, which provides for full competition among telecommunications and cable service providers, would serve as a catalyst in the development of the U.S. communications industry, a cornerstone to long-term economic growth and development. Although competition has become a reality in many areas of the communications industry, the time has come to lift restrictions that prevent local telephone companies and cable companies from contributing fully to the advancement of the Nation's information infrastructure.

But, more importantly, we have the responsibility of adopting laws that will enable all consumers to obtain a full range of communications services from the providers of their choice, at competitive prices. We in Congress have learned hard lessons that strict industry regulation has not brought about the deployment of new communications services, nor driven down the costs of those services. Clearly, the most viable means of achieving those goals is to adopt policies that will enable competition to flourish within the communications industry. H.R. 3636 strikes the right balance in achieving competition and in preserving the major tenet of U.S. communications policy—universal service.

Mr. MARKEY and Mr. FIELDS have crafted a bill that will serve our Nation well. I applaud their efforts and urge my colleagues to adopt H.R. 3636.

Mr. LAZIO. Mr. Speaker, today the House is taking a positive step toward opening the information superhighway by passing H.R. 3626 and H.R. 3636. These bills will increase competition in the U.S. telecommunications industry, making us more competitive in the world market, and will stimulate economic growth, creating new jobs for Americans.

The WEFA Group, a respected econometric forecasting agency, and the Economic Policy Institute, a well-known think tank, examined the impact of increased competition on the U.S. telecommunications industry. Both concluded such a change in policy would result in millions of new jobs.

WEFA found that a fully competitive telecommunications environment will create 3.6 million new jobs by the year 2003. These jobs will be spread throughout the U.S. economy and in every State in the Union. EPI found these jobs will be filled by blue-collar, noncollege-educated workers, a segment of our economy that has been particularly hard hit by layoffs and the loss of more traditional employment.

A number of Members on both sides of the aisle have worked hard to make this legislation a reality, and I commend them for their efforts. After lagging behind our international competitors, H.R. 3626 and H.R. 3636 will help the United States recapture and maintain its lead in high technology development and marketing.

Mr. Speaker, I urge my colleagues to join me in supporting this legislation.

Ms. SNOWE. Mr. Speaker, I rise in strong support of H.R. 3636 and H.R. 3626, telecommunications legislation which will dramatically improve our Nation's telecommunications

policy, setting the stage for our Nation's entry into the information age.

These measures are a compromise, and I congratulate the members of the Energy and Commerce and Judiciary Committees for their excellent work. They have ended years of deadlock between industries seeking to protect their own interests. These bills represent an opportunity to unleash the creative, competitive spirits of telecommunications industries, while providing important protections for consumers and rural areas such as universal access and rural exemptions for rural companies.

Most importantly, these bills will serve as a catalyst in the development of the U.S. communications industry, a cornerstone to long-term economic growth and development. I share the view of many in Maine, including the Maine Chamber of Commerce and Industry, that Maine's quality of life when combined with a state-of-the-art telecommunications infrastructure will be an excellent job-creating, job-attracting tool. A study by the independent econometric forecasting firm, the WEFA Group, indicated that full competition in the telecommunications industry would create 3.6 million new jobs in the United States over the next 10 years in a variety of industries in every State in the Union. In my home State of Maine, the WEFA study estimates that over 16,000 new jobs would be created in the next 10 years.

Congress has the responsibility of adopting laws that will enable all consumers to obtain a full range of communications services from the providers of their choice, at competitive prices. The most viable means of achieving these goals is to adopt policies, such as those embodied by these two bills, that will enable competition to flourish within the communications industry, while preserving universal service.

I urge my colleagues to join me in supporting H.R. 3636 and H.R. 3626.

Mr. GEPHARDT. Mr. Speaker, I rise in support of H.R. 3636 and H.R. 3626, and I commend particularly Mr. DINGELL, Mr. BROOKS, and Mr. MARKEY for their leadership in fashioning a new vision for America's vital telecommunications industry.

These bills—the most significant communications legislation in 60 years—will inject new competition into the Nation's long-distance and local telephone industries. As such, they promise to unleash new technologies that will revolutionize the American lifestyle.

For the past decade, the Nation's telecommunications policies have been determined largely in Federal courts. The 1982 Consent Decree, known as the modified final judgment [MFJ], divested AT&T of its local Bell operating companies and allowed some competition in long-distance telephone service. The resulting competition lowered prices and accelerated private investment in new long-distance technology.

Under the MFJ, however, significant impediments to competition remain. The MFJ bars the Bell operating companies from providing long-distance service. Local telephone service remains heavily regulated. And the MFJ has prevented Bells from manufacturing equipment, forfeiting jobs to foreign manufacturers.

While some of these restrictions made sense in the early 1980's, subsequent devel-

opments have brought massive change to the telecommunications industry, creating new possibilities for healthy and beneficial competition. Companies that barely existed in early 1980's are now billion-dollar enterprises. Local Bell companies face focused—albeit not widespread—competition in many services.

The House legislation is intended to invigorate competition, fostering private investment in the development of a new telecommunications infrastructure.

H.R. 3636 allows the Bell operating companies to provide interstate long-distance service immediately and to begin the manufacture of equipment within 1 year, provided that their entry poses no significant possibility of lessened competition in the markets they seek to enter. Bell entry into intrastate long-distance markets remains subject to State public service commission approval, with the Justice Department given 90 days to review State decisions.

H.R. 3626 likewise opens up the market for local telephone services. It requires the Bell companies to offer use of their local networks to any competitors—such as cable companies. It also allows the Bells to offer cable services. Both bills contain mechanisms to assure continuation of universal service and retain sensible regulation where competition is unlikely to develop.

These changes portend the creation of new American jobs, perhaps more than 40,000 in Missouri alone. Moreover, the exploitation of digital technology and the creation of the information superhighway is expected to revolutionize opportunities for learning, delivering health care, conducting business, and providing government service. Under this legislation, consumers should expect to see a multitude of changes within several years: a choice of cable TV services from multiple operators, with more programming and improved prices; new choices in both local and long-distance telephone service; the ability to monitor the sick at home so they do not have to spend so much time in hospitals; expanded research and educational opportunities at schools and colleges across the State; greater opportunities for people to work at home, thereby reducing traffic congestion and increasing leisure time; expanded access to shopping and entertainment.

We know from experience that new technologies promise profound and positive change to those who embrace them. While preserving safeguards needed to maintain universal coverage and fair pricing, this legislation makes tremendous strides to realize the possibilities inherent in new technologies. We are on the verge of another technological revolution.

Mr. SERRANO. Mr. Speaker, as we are all aware, America faces new challenges in education. Growth in technology, competing world markets, and the changing perspective of the youth have created a need for an innovative way of thinking and acting in the educational arena.

This is why I give my support for H.R. 3626 and H.R. 3636. By eliminating the restrictions in the local telephone market, we can increase competition, increase technology, and provide students with the educational edge needed for success.

Inner-city, as well as rural students, increasingly find themselves isolated from a wide range of educational opportunities. H.R. 3626 and H.R. 3636 will change outdated policies to allow expanded access to global information, allowing everyone from the elementary student who lives in a disadvantaged neighborhood, to the university professor working on a cure for cancer, to all have access to learning tools such as expanded databases, and electronic distance learning. This will in turn improve the quality of life, not only for them, but for all Americans. Yes, I support improving education in America. I support H.R. 3626 and H.R. 3636.

Mr. COOPER. Mr. Speaker, I think we all owe a great deal of thanks to Chairman DINGELL, Chairman BROOKS, and Chairman MARKEY for their tireless efforts to bring telecommunications reform legislation to fruition this year. Many thought that this day would never come, and it is a tribute to your skill and dedication that it has.

Both of the bills that we will vote on today represent a step forward toward achieving what we all want—an information superhighway that benefits both consumer and business alike. I support H.R. 3636, and commend the changes made at the subcommittee and committee level. I have some reservations about H.R. 3626. As I said during the hearing process, forging this deal was a herculean achievement. That achievement should not, however, overshadow the real and important concerns of those who were not even invited to the negotiating table.

The Regional Bell Operating Companies [RBOC's] were restricted from entering long-distance, manufacturing, and information services because they had the local monopoly strength to squelch competition from smaller businesses. The decision to keep the RBOC's out of long distance, as long as they are monopolies, has been a success to this point. Little more than a decade ago, only the smallest handful of long-distance callers had a choice of carriers. Today, virtually every consumer in the Nation has a choice of at least three full-service long-distance companies. Since the breakup of the Bell system monopoly, average long-distance rates have dropped dramatically.

Prices have dropped, both residential and business users can take advantage of significant discounts offered by long-distance companies. The competitive marketplace has spurred an increase in the value of service, and technological improvements worth billions.

Competition is the force that drives our economy, and I could not be a stronger supporter of that concept across the board. In order for true, healthy, constructive competition to operate, however, we must assure the so-called level playing field. I am all for allowing the RBOC's and cable companies to compete in a fair arena. If what we do here today is to the detriment of consumers, then we have defeated the ultimate purpose.

With regard to H.R. 3626, I support the general thrust of this bill. Assertion of congressional authority in this area is long overdue. I had hoped, however, that we could have agreed on an amendment that would have applied the same entry test to the RBOC's in intrastate long distance that we apply to the interstate market.

Again, let me commend Chairmen DINGELL, BROOKS, and MARKEY for their tremendous hard work to get this legislation to the floor. There is wide support for telecommunications reform this year, both in Government and the private sector. I hope that these bills will receive the support of the full House.

Mr. OLVER. Mr. Speaker, I support H.R. 3636 for the economic advantages it will bring to the new information age and the competition it will help to usher in in telecommunications. I also support this legislation for the social advantages the bill will provide by ensuring that people with disabilities have access to new technologies.

By allowing telephone companies to provide video programming, services such as narrator-spoken descriptions of on-screen action can assist the blind, while complete captioned programming can serve the deaf. For bedridden and elderly individuals the development of new services and the opening of the telecommunications network has the potential of greatly enhancing their lives, by both removing isolation and maintaining their independence.

H.R. 3636 will also expand the quality and lower the cost of education. An open telecommunications market will result in the development of new services, better products, and greater efficiency by connecting students to teachers and both to worldwide information.

The creation of new jobs in these services and industries is another advantage of H.R. 3636. Not only will these benefits be seen here at home, but they should enable us to increase our competitiveness in international markets as well. For these reasons I support and will cast my vote for H.R. 3636.

Ms. SCHENK. Mr. Speaker, I rise in strong support of both H.R. 3626 and H.R. 3636. Chairman DINGELL, Chairman MARKEY, and Chairman BROOKS deserve our thanks and praise for their hard work, their vision, and their leadership in this debate.

Mr. Speaker, others will describe the many benefits of this legislative package. I'd like to focus on just one—its potential to stimulate economic growth and job creation.

Mr. Speaker, the telecommunications and information industries will be the engines of economic growth into the next century. In San Diego County, for example, telecommunications employment grew by 22 percent last year.

This growth has occurred despite a patchwork system of inflexible regulations that reflect the realities of yesterday, not the vibrant industries of today.

These bills break down the artificial barriers that stifle competition between phone companies and cable operators. They will stimulate private investment by enacting a uniform system of federal regulation. And, according to a recently released report by the President's Council of Economic Advisers, these bipartisan bills will help the private sector create more than 500,000 new jobs over the next 2½ years.

Mr. Speaker, I urge my colleagues to pass these bills and help create the next generation of high-wage jobs.

Mr. TOWNS. Mr. Speaker, I rise in support of H.R. 3636, a forward-looking bill that will advance the development of the information highway. I wish to congratulate Chairman

MARKEY and the ranking member, Mr. FIELDS and their staffs for their patience in developing a bill that has bipartisan and inter-industry support on a most difficult and complicated issue.

H.R. 3636 will open the telephone network at the local level to full competition, and will permit the local exchange companies to provide video services. In this environment, competition will flourish for both telephone and cable services, where we have seen only limited competition in the past. As more people are connected to the information highway, more entrepreneurial endeavors will develop steadily increasing service options.

These entrepreneurial companies will create jobs in a robust new industry fueled by the passage of H.R. 3636. I urge all my colleagues to support this bill.

Mr. PASTOR. Mr. Speaker, a little discussed or debated and not well-understood provision in H.R. 3636, the National Communications Competition and Infrastructure Investment Act, could have a mega-billion-dollar impact on the price of telephone service. Language in the bill states that the resale of local telephone service shall "not be prohibited or subject to unreasonable conditions."

Although it sounds rather innocent, that provision is a direct broadside at the affordability of telephone service. By conservative estimates, the historic system of telephone pricing has resulted in a \$20 billion subsidy of carrier services. Permitting unlimited resale could virtually wipe out that subsidy. I am concerned that the \$20 billion could not be recovered without a hefty increase in residential rates.

Resale is a practice whereby a third-party buys bulk services from the local telephone company and resells them to customers. By buying in bulk, the third-party achieves certain savings, enabling that company to undercut the local telephone company in selling primarily to business customers.

Within limits, some States permit the practice today. Third-parties can resell within the same class of service, but can't buy residence lines and sell them to business customers, or purchase business lines and sell them to inter-exchange carriers. The FCC permits resale in the interstate jurisdiction, but bars long distance carriers from using business service to connect the local and long distance network. Instead, the FCC requires the carriers to buy access service.

Depending on how unreasonable conditions is defined, H.R. 3636 could remove those limits and place billions of dollars of subsidies at risk. I can think of no reason why a business customer would pay \$35 per month for a telephone line if a third-party will sell that customer a line for \$30. Without limits on resale, that is not only possible, but likely.

Because of this concern, I urge conferees to clarify this matter to help ensure that subsidies are protected and the price of telephone service remains affordable.

Mr. QUINN. Mr. Speaker, I rise in support today of H.R. 3636—the National Communications Competition and Information Infrastructure Act. This is a procompetitive bill which will help advance the development of telecommunications technology and the information superhighway.

I wish to congratulate Chairman MARKEY and ranking member JACK FIELDS and their

staffs for their work in developing a bill on this difficult and complicated issue that has bipartisan support.

I am a cosponsor of H.R. 3636 and strongly believe that we should permit the local exchange telephone companies to provide video services. Competition will bring new services to consumers and will serve to hold down prices.

This legislation will also give telecommunications companies the financial incentives necessary to install fiber optic lines, high-capacity switches and other broadband technology throughout the local networks. This last mile of the information superhighway will be put in place much more quickly with the passage of H.R. 3636.

Competition clearly works. And I want my constituents to have choices—both in cable television services and in telephone services. H.R. 3636 will ensure fair and open competition for both services. I urge my colleagues to support this bill.

Mr. HUGHES. Mr. Speaker, I rise in support of H.R. 3636, the Telephone/Cable Communications Competition and Infrastructure Act of 1994. I would like to commend my colleagues, Chairman DINGELL, Chairman MARKEY, and Chairman BROOKS for the excellent work they have done with respect to facilitating this measure being brought to the floor for a vote. As a result of their diligence, we have the opportunity—by passing H.R. 3636—to ensure that America remains on the path toward excellence in the international telecommunications marketplace.

Undoubtedly, the technology that American telecommunications companies have developed to date—and have the potential to develop in the future—is tremendous. At this juncture our challenge is to create an environment in which these companies may flourish and achieve even more sophisticated technological advances leading to the establishment of the national information superhighway.

H.R. 3636 will assist us in facing this challenge by promoting the creation of a national communications and information infrastructure. This measure will enable the American telecommunications industry to remain on the cutting edge of the technological advancements fueling this communications revolution by encouraging the development of state-of-the-art communication services and technologies through competition. Of equal importance, this bill establishes provisions to safeguard rate-payers and competitors from potential anti-competitive abuses and preserves as well as enhances universal service.

Essentially, H.R. 3636 will eliminate the line of business prohibitions that currently ban or limit the ability of telephone companies, cable companies as well as other telecommunication service providers from competing in each other's business.

That is, H.R. 3636 will promote competition in the local telephone market by requiring that local telephone companies allow competitors equal access to their networks. Local telephone companies generally could be required to provide space at their facilities for competitors to place equipment with which to connect the telephone companies' networks.

Moreover, the local telephone companies must ensure that such connections provide full

interoperability between their phone system and their competitors' systems. The bill also requires long-distance networks and cellular companies to allow other parties to use their switches and transmission equipment for their competing businesses.

It is important to note that this bill preserves State and local governments' rights to regulate telephone companies to the extent necessary for public safety, consumer protection and to ensure that intrastate rates are reasonable. However, these governing bodies would be prevented from imposing any franchise, license or other fee that discriminates against potential competitors.

One of the most significant aspects of H.R. 3636 is the Federal-State Joint Review Board it establishes to recommend to the Federal Communications Commission [FCC] and the State utility commissions specific action necessary to preserve and enhance universal access for consumers. This joint-board will define the nature and extent of services encompassed within a telephone company's universal service obligation. Moreover, the board's review will ensure that as technological innovation and competition are introduced into the local telephone market, the policy of universal access to basic telephone service at affordable rates is preserved.

As in the local telephone industry, H.R. 3636 will promote and accelerate competition to the cable television industry by permitting telephone companies to compete in the offering of video programming. Essentially, the bill eliminates the cross-ownership restrictions established in the 1984 Cable Act. Therefore, pursuant to H.R. 3636, local telephone companies—through separate affiliates—will be permitted to provide cable services in their own service areas. This increase in competition will, in turn, provide a strong incentive for the local telephone companies to invest in and upgrade their information networks.

Another safeguard against the potential for anticompetitive behavior is the establishment of the video-platform. Pursuant to H.R. 3636, those telephone companies that offer cable services in their own service areas would be required to establish a video platform upon which to offer their video programming. Telephone companies, on a nondiscriminatory basis, must allow other providers to offer video programming to subscribers utilizing the same video platform.

I urge my colleagues to support H.R. 3636. This measure is a procompetitive, proconsumer bill which will enable America to remain at the forefront of the rapidly developing information superhighway while ensuring quality and affordable services for American consumers.

Mr. PAXON. Mr. Speaker, I am in support of H.R. 3636 because I believe it establishes good public policy for the United States. However, I would like to take this opportunity to raise a concern about one of the bill's provisions that would require local phone companies to further unbundle their various services.

I understand some of the reasoning behind this provision, but I think we also need to be fully aware of the potential risk here. Many people in this country do not want Congress to force them to buy their telecommunications services a la carte. They would prefer to pur-

chase a package of services tailored to fit their needs.

Selling everything individually does not mean that they will be cheaper. In fact, the more things sold or bought, the larger the transaction costs. That is why more and more businesses are offering packages of goods or services. This is not an attempt to be anti-competitive, rather businesses are trying to offer consumers greater convenience at a better price.

H.R. 3636 might be read as prohibiting this. I hope H.R. 3636 does not because I think customers should have the option of purchasing telecommunications services individually or as part of a package.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 3636, as amended.

The question was taken.

Mr. FIELDS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has concluded on all motions to suspend the rules.

Pursuant to clause 5, rule I, the Chair will now put the question on each motion to suspend the rules on which further proceedings were postponed earlier today in the order in which those motions were entertained. Votes will be taken in the following order:

H.R. 3626, by the yeas and nays; and H.R. 3636, by the yeas and nays.

The Chair will reduce to 5 minutes the time for the second electronic vote after the first vote in this series.

ANTITRUST AND COMMUNICATIONS REFORM ACT OF 1994

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 3626, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. BROOKS] that the House suspend the rules and pass the bill H.R. 3626, as amended, on which the yeas and nays are ordered.

The Chair reminds Members that the next vote will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 5, not voting 6, as follows:

[Roll No. 292]

YEAS—423

Abercrombie	Diaz-Balart	Johnson (CT)
Ackerman	Dickey	Johnson (GA)
Allard	Dicks	Johnson (SD)
Andrews (ME)	Dingell	Johnson, E. B.
Andrews (NJ)	Dixon	Johnson, Sam
Andrews (TX)	Dooley	Johnston
Applegate	Doolittle	Kanjorski
Archer	Dreier	Kaptur
Army	Duncan	Kasich
Bacchus (FL)	Dunn	Kennedy
Bachus (AL)	Durbin	Kennelly
Baesler	Edwards (CA)	Kildee
Baker (CA)	Edwards (TX)	Kim
Baker (LA)	Ehlers	King
Ballenger	Emerson	Kingston
Barca	Engel	Kleczka
Barcia	English	Klein
Barlow	Eshoo	Klink
Barrett (NE)	Evans	Klug
Barrett (WI)	Everett	Knollenberg
Bartlett	Ewing	Kolbe
Barton	Farr	Kopetski
Bateman	Fawell	Kreidler
Beccerra	Fazio	Kyl
Bellenson	Fields (LA)	LaFalce
Bentley	Fields (TX)	Lambert
Bereuter	Flner	Lancaster
Berman	Fingerhut	Lantos
Bevill	Fish	LaRocco
Bilbray	Foglietta	Laughlin
Billirakis	Ford (MI)	Lazio
Bishop	Ford (TN)	Leach
Blackwell	Fowler	Lehman
Bliley	Frank (MA)	Levin
Blute	Franks (CT)	Levy
Boehlert	Franks (NJ)	Lewis (CA)
Boehner	Frost	Lewis (FL)
Bonilla	Furse	Lewis (GA)
Bonior	Gallegly	Lewis (KY)
Borski	Gallo	Lightfoot
Boucher	Gejdenson	Linder
Brewster	Gekas	Lipinski
Brooks	Gephardt	Livingston
Browder	Geren	Lloyd
Brown (CA)	Gibbons	Long
Brown (FL)	Gilchrest	Lowey
Brown (OH)	Gillmor	Lucas
Bryant	Gilman	Machtley
Bunning	Gingrich	Maloney
Burton	Glickman	Mann
Buyer	Goodlatte	Manton
Byrne	Goodling	Manzullo
Callahan	Gordon	Margolies-
Calvert	Goss	Mezvinsky
Camp	Grams	Markey
Canady	Grandy	Martinez
Cantwell	Green	Matsui
Cardin	Greenwood	Mazzoli
Carr	Gunderson	McCandless
Castle	Gutierrez	McCloskey
Chapman	Hall (OH)	McCollum
Clay	Hall (TX)	McCreery
Clayton	Hamburg	McCurdy
Clement	Hamilton	McDade
Clinger	Hancock	McDermott
Clyburn	Hansen	McHale
Coble	Harman	McHugh
Coleman	Hastert	McInnis
Collins (GA)	Hastings	McKeon
Collins (IL)	Hayes	McKinney
Collins (MI)	Hefley	McMillan
Combest	Hefner	McNulty
Condit	Herger	Meehan
Conyers	Hinches	Meek
Cooper	Hoagland	Menendez
Coppersmith	Hobson	Meyers
Costello	Hochbrueckner	Mfume
Cox	Hoekstra	Mica
Coyne	Horn	Michel
Cramer	Houghton	Miller (CA)
Crane	Hoyer	Miller (FL)
Crapo	Huffington	Mineta
Cunningham	Hughes	Minge
Danner	Hunter	Mink
Darden	Hutchinson	Moakley
de la Garza	Hutto	Molinar
Deal	Hyde	Mollohan
DeFazio	Inglis	Montgomery
DeLauro	Inhofe	Moorhead
DeLay	Inslee	Moran
Dellums	Istook	Morella
Derrick	Jacobs	Murphy
Deutch	Jefferson	Murtha

Myers	Rowland	Swift
Nadler	Roybal-Allard	Synar
Neal (MA)	Royce	Talent
Neal (NC)	Rush	Tanner
Nussle	Sabo	Tauzin
Oberstar	Sanders	Taylor (MS)
Olver	Sangmeister	Taylor (NC)
Ortiz	Santorum	Tejeda
Orton	Sarpalius	Thomas (CA)
Owens	Sawyer	Thomas (WY)
Oxley	Saxton	Thompson
Packard	Schaefer	Thornton
Pallone	Schenk	Thurman
Parker	Schiff	Torkildsen
Pastor	Schroeder	Torres
Paxon	Schumer	Torricelli
Payne (NJ)	Scott	Towns
Payne (VA)	Sensenbrenner	Trafficant
Pelosi	Serrano	Tucker
Penny	Sharp	Unsold
Peterson (FL)	Shaw	Upton
Peterson (MN)	Shays	Valentine
Pickett	Shepherd	Velázquez
Pickle	Shuster	Vento
Pomeroy	Sisisky	Visclosky
Porter	Skaggs	Volkmer
Portman	Skeen	Vucanovich
Poshard	Skelton	Walker
Price (NC)	Slattery	Walsh
Pryce (OH)	Slaughter	Washington
Quillen	Smith (IA)	Waters
Quinn	Smith (MI)	Watt
Rahall	Smith (NJ)	Waxman
Ramstad	Smith (OR)	Weldon
Rangel	Smith (TX)	Wheat
Ravenel	Snowe	Whitten
Reed	Solomon	Williams
Regula	Spence	Wilson
Reynolds	Spratt	Wise
Richardson	Stark	Wolf
Roberts	Stearns	Woolsey
Roemer	Stenholm	Wyden
Rogers	Stokes	Wynn
Rohrabacher	Strickland	Young (AK)
Ros-Lehtinen	Studds	Young (FL)
Rose	Stump	Zeliff
Rostenkowski	Stupak	Zimmer
Roth	Sundquist	
Roukema	Swett	

NAYS—5

Gonzalez	Obey	Yates
Holden	Petri	

NOT VOTING—6

Dornan	Hilliard	Pombo
Flake	Hoke	Ridge

□ 1449

Mr. YATES changed his vote from "yea" to "nay."
 So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.
 The result of the vote was announced as above recorded.
 A motion to reconsider was laid on the table.

NATIONAL COMMUNICATIONS COMPETITION AND INFORMATION INFRASTRUCTURE ACT OF 1994

The SPEAKER pro tempore (Mr. MONTGOMERY). The pending business is the question of suspending the rules and passing the bill, H.R. 3636, as amended.
 The Clerk read the title of the bill.
 The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. MARKEY] that the House suspend the rules and pass the bill, H.R. 3636, as amended, on which the yeas and nays are ordered.
 The Chair will tell the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 4, not voting 7, as follows:

[Roll No. 293]

YEAS—423

Abercrombie	DeLa	Hughes
Ackerman	Dellums	Hunter
Allard	Derrick	Hutchinson
Andrews (ME)	Deutsch	Hutto
Andrews (NJ)	Diaz-Balart	Hyde
Andrews (TX)	Dickey	Inglis
Applegate	Dicks	Inhofe
Archer	Dingell	Inslee
Armey	Dixon	Istook
Bacchus (FL)	Dooley	Jacobs
Bacchus (AL)	Doolittle	Jefferson
Baesler	Dreier	Johnson (CT)
Baker (CA)	Duncan	Johnson (GA)
Baker (LA)	Dunn	Johnson (SD)
Ballenger	Durbin	Johnson, E. B.
Barca	Edwards (CA)	Johnson, Sam
Barcia	Edwards (TX)	Johnston
Barlow	Ehlers	Kanjorski
Barrett (NE)	Emerson	Kaptur
Barrett (WI)	Engel	Kasich
Bartlett	English	Kennedy
Barton	Eshoo	Kennelly
Bateman	Evans	Kildee
Becerra	Everett	Kim
Beilenson	Ewing	King
Bentley	Farr	Kingston
Bereuter	Fawell	Kleccka
Berman	Fazio	Klein
Bevill	Fields (LA)	Klink
Bilbray	Fields (TX)	Klug
Bilirakis	Filner	Knollenberg
Bishop	Fingerhut	Kolbe
Blackwell	Fish	Kopetski
Bliley	Foglietta	Kreidler
Blute	Ford (MI)	Kyl
Boehlert	Ford (TN)	LaFalce
Boehner	Fowler	Lancaster
Bonilla	Frank (MA)	Lantos
Bonior	Franks (CT)	LaRocco
Borski	Franks (NJ)	Laughlin
Boucher	Frost	Lazio
Brewster	Furse	Leach
Brooks	Galleghy	Lehman
Browder	Gallo	Levin
Brown (CA)	Gejdenson	Levy
Brown (FL)	Gekas	Lewis (CA)
Brown (OH)	Gephardt	Lewis (FL)
Bryant	Geren	Lewis (GA)
Bunning	Gibbons	Lewis (KY)
Burton	Gilchrest	Lightfoot
Buyer	Gillmor	Linder
Byrne	Gilman	Lipinski
Callahan	Gingrich	Livingston
Calvert	Glickman	Lloyd
Camp	Goodlatte	Long
Canady	Goodling	Lowey
Cantwell	Gordon	Lucas
Cardin	Goss	Machtley
Castle	Grams	Maloney
Chapman	Grandy	Mann
Clay	Green	Manton
Clayton	Greenwood	Manzullo
Clement	Gunderson	Margolies-
Clinger	Gutierrez	Mezvinsky
Clyburn	Hall (OH)	Markey
Coble	Hall (TX)	Martinez
Coleman	Hamburg	Matsui
Collins (GA)	Hamilton	Mazzoli
Collins (IL)	Hancock	McCandless
Collins (MI)	Hansen	McCloskey
Combest	Harman	McCollum
Condit	Hastert	McCrery
Conyers	Hastings	McCurdy
Cooper	Hayes	McDade
Coppersmith	Hefley	McDermott
Costello	Hefner	McHale
Cox	Herger	McHugh
Coyne	Hinchey	McInnis
Cramer	Hoagland	McKeon
Crane	Hobson	McKinney
Crapo	Hochbrueckner	McMillan
Cunningham	Hoekstra	McNulty
Danner	Hoke	Meehan
Darden	Holden	Meek
de la Garza	Horn	Menendez
Deal	Houghton	Meyers
DeFazio	Hoyer	Mfume
DeLauro	Huffington	Mica

Michel	Richardson	Studds
Miller (CA)	Roberts	Stump
Miller (FL)	Roemer	Stupak
Mineta	Rogers	Sundquist
Minge	Rohrabacher	Swett
Mink	Ros-Lehtinen	Swift
Moakley	Rose	Synar
Molinari	Rostenkowski	Talent
Mollohan	Roth	Tanner
Montgomery	Roukema	Tauzin
Moorhead	Rowland	Taylor (MS)
Moran	Roybal-Allard	Taylor (NC)
Morella	Royce	Tejeda
Murphy	Rush	Thomas (CA)
Murtha	Sabo	Thomas (WY)
Myers	Sanders	Thompson
Nadler	Sangmeister	Thornton
Neal (MA)	Santorum	Thurman
Neal (NC)	Sarpalius	Torkildsen
Nussle	Sawyer	Torres
Oberstar	Saxton	Torricelli
Olver	Schaefer	Towns
Ortiz	Schenk	Trafficant
Orton	Schiff	Tucker
Owens	Schroeder	Unsold
Oxley	Schumer	Upton
Packard	Scott	Valentine
Pallone	Sensenbrenner	Velázquez
Parker	Serrano	Vento
Pastor	Sharp	Visclosky
Paxon	Shaw	Volkmer
Payne (NJ)	Shays	Vucanovich
Payne (VA)	Shepherd	Walker
Pelosi	Shuster	Walsh
Penny	Sisisky	Washington
Peterson (FL)	Skaggs	Waters
Peterson (MN)	Skeen	Watt
Pickett	Skelton	Waxman
Pickle	Slattery	Weldon
Pomeroy	Slaughter	Wheat
Porter	Smith (IA)	Whitten
Portman	Smith (MI)	Williams
Poshard	Smith (NJ)	Wilson
Price (NC)	Smith (OR)	Wise
Pryce (OH)	Smith (TX)	Wolf
Quillen	Snowe	Woolsey
Quinn	Solomon	Wyden
Rahall	Spence	Wynn
Ramstad	Spratt	Young (AK)
Rangel	Stark	Young (FL)
Ravenel	Stearns	Zeliff
Reed	Stenholm	Zimmer
Regula	Stokes	
Reynolds	Strickland	

NAYS—4

Gonzalez	Petri
Obey	Yates

NOT VOTING—7

Carr	Hilliard	Ridge
Dornan	Lambert	
Flake	Pombo	

□ 1501

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.
 The result of the vote was announced as above recorded.
 A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. LAMBERT. Mr. Speaker, on rollcall vote No. 293 H.R. 3636 providing for the consideration of the National Communications Competition and Information Infrastructure Act of 1994, my vote was not recorded. My intent was to vote "yea" on this bill as I am in favor of it.

GENERAL LEAVE

Mr. MARKEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to

include extraneous material, on H.R. 3636, the bill just passed.

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

There was no objection.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3626, ANTI-TRUST AND COMMUNICATIONS REFORM ACT OF 1994

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Clerk of the House, in the engrossment of the bill, H.R. 3626, be authorized to delete title III of H.R. 3626, to add at the end of title II of H.R. 3626 the text of titles I through IV of H.R. 3636, to redesignate titles I through IV of H.R. 3636 as titles III through VI of H.R. 3626, to redesignate section numbers and references thereto accordingly, and to conform the table of contents and to make such other technical and conforming changes as may be necessary.

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

Mr. FISH. Mr. Speaker, reserving the right to object, I, of course, will not object. I simply want the views of the gentleman from Texas, chairman of the Committee on the Judiciary. The purpose of this unanimous consent request is simply to marry up the two bills just passed by the House this afternoon?

Mr. BROOKS. Mr. Speaker, if the gentleman will yield, the gentleman is absolutely correct. We can send them to the Senate and have a joint conference. The bill that is now being considered in the other body includes both components.

Mr. FISH. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The SPEAKER pro tempore. Without objection, H.R. 3636 is laid on the table.

There was no objection.

ANNOUNCEMENT REGARDING PREPRINTING OF AMENDMENTS ON H.R. 4299, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995

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

Mr. MOAKLEY. Mr. Speaker, the Rules Committee has granted a rule for H.R. 4299, the Intelligence Authorization Act for fiscal year 1995, that would require any amendments to H.R. 4299 be printed in the CONGRESSIONAL RECORD prior to the consideration of the bill. It is anticipated that H.R. 4299

will be considered in the House upon our return from the July 4 district work period.

Members should be aware, that the rule the Committee reported, provides for consideration of only those amendments that have been filed in the CONGRESSIONAL RECORD prior to consideration of H.R. 4299.

Again, H.R. 4299 is not expected to be considered by the House until the week of July 11, however, it is important that Members who desire to amend this bill, file their amendments in the CONGRESSIONAL RECORD as soon as possible.

I thank the Members of the House for their consideration in this matter.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST H.R. 4649, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-564) on the resolution (H. Res. 466) waiving certain points of order against the bill (H.R. 4649) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4600, EXPEDITED RESCISSIONS ACT OF 1994

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-565) on the resolution (H. Res. 467) providing for consideration of the bill (H.R. 4600) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4299, INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1995

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 103-566) on the resolution (H. Res. 468) providing for consideration of the bill (H.R. 4299) to authorize appropriations for fiscal year 1995 for intelligence, and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes, which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill (H.R. 4606) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes, and that I may be permitted to include tables, charts, and other extraneous matter.

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

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. SMITH of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4606) making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes; and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 1 hour, the time to be equally divided and controlled by the gentleman from Illinois [Mr. PORTER] and myself.

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

Mr. PORTER. Mr. Speaker, reserving the right to object, I do so simply to say that at this point in time, we have requests for general debate speakers that exceed our 30 minutes. I would simply ask the gentleman, when we reach the end of our 1 hour, if we still have speakers left, whether he might accede to a few other speakers.

Mr. SMITH of Iowa. Mr. Speaker, if the gentleman will yield, we might go under the 5-minute rule.

Mr. PORTER. We can do that, yes.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

□ 1509

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4606, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

By unanimous consent, the bill was considered as having been read the first time.

The CHAIRMAN. Under the unanimous consent agreement, the gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. PORTER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Iowa [Mr. SMITH].

□ 1510

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first, I want to thank the members of the subcommittee and the full committee, the Members of the House, the members of the authorizing committees, and all the others who helped on this bill. It takes everybody to put together this bill, because it is a big bill. It involves over 500 programs.

The programs in this bill total \$258 billion in budget authority for 1995. Of that \$258 billion in budget authority, \$252 billion it is estimated will be obligated within the fiscal year 1995. That happens to be \$7.2 billion less than was obligated in the prior fiscal year, that is, this fiscal year. However, that is, mostly accounted for by a reduction in unemployment compensation and Medicare subsidies over which, of course, we have little control.

Now, the President's request included a good many increases for programs, all of them good increases, good things that people would like to vote for. But to pay for those, he also provided recommendations for a lot of reductions that were far in excess of what this House would stand for.

And so we had to take a look overall at those reductions. At the same time we looked at the administration's request for increases. Among the reductions that they requested were \$745 million in the energy assistance program for low-income people; \$745 million is over 50 percent of the amount they got this year. Of course, that would not be sustained in the House. We restored \$495 million of that amount.

They also requested a reduction of \$140 million in impact aid. We restored \$70 million of that. On the other hand, there is going to be a revision in the formula, and H.R. 6 is in the Senate. It has already passed the House, and we provided for the distribution of that amount of money under the House-passed bill.

In addition to that, the administration recommended the elimination of 33 programs. Actually the subcommittee went along, and the committee went along, with eliminating 21 of those programs. All of them had some importance. All of them were good in some ways. But in setting the priorities, we went along with the eliminations.

After we had done all of this, we found out that the amount of money allocated was actually only about 96½ percent of what current services were in this fiscal year that we are in right now. So we had to go with a sort of a temporary formula, because I do not like across-the-board, and I do not think many people do. We did not want to cut everything 3½ percent. So what we did, anyplace we increased something, including the requests of the administration, we found an offset for it. When you increase something, you find an offset for it in the reductions.

By the time we had done that, we were down in some accounts to where we were into RIF's. A RIF in the first year does not save money. There are payouts of various kinds and transfers, and so we tried to avoid RIF's.

I do not believe at this point, although we are right on the edge, I do not believe at this point that we will require RIF's within this year. That does not mean that they will not have another reduction next year in some of these programs.

I consulted the members of the subcommittee of the House, of the authorizing committees, and I got plenty of advice from Members of the House, a whole stack of advice in the way of letters, people wanting everything increased. I do not remember anything that they wanted to reduce.

The bill, as it comes out here, does not include any provision, I do not believe, that is objected to by an authorizing committee.

It does include some limitations that were either requested or agreed to by authorizing committees, and virtually all of the general provisions were carried before. There were a couple of exceptions to that which I think will come up during the process of the amendments. But virtually all of the general provisions are provisions that have been carried, many, for many years, and apparently desired and wanted. The authorizing committee did not object, and so they were carried again.

The bill does not make anyone completely happy. I would be the first to agree to that. But I really believe that this is the best that we could do under the circumstances today, and I heartily recommend the passage of the bill as it is today.

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

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

Mr. Chairman, I want to begin by paying tribute to our long-time colleague Bill Natcher who passed away earlier this year. He was truly one of the legends of the House, and it was one of the great privileges of my career to have served with him on this subcommittee. I have served on this subcommittee over 12 years and until this year, he was the only chairman I had

served under. I think we have all greatly missed Bill's warmth and dignity, and his passing has been a great loss to me personally, to the Congress, and to the country.

Mr. SMITH is our new chairman, and he has done a tremendous job of leading this subcommittee under extremely difficult circumstances in which he was required to assume command of the bill midway through our annual hearings. I have very much appreciated his consensus building, cooperative spirit, and fairness in bringing this bill out of the committee.

Mr. Chairman, as Bill Natcher would always say, "This is a good bill."

We have put it together with an allocation that was well below what the President requested in programs under our jurisdiction.

I will have two amendments later that reflect perhaps some differences in our priorities.

As it stands, this bill very heavily reflects the President's investment initiatives. Funding is reduced across the bill to 96.5 percent of current services to accommodate increases in each of the President's investment priorities including: Chapter 1, Head Start, Goals 2000, NIH, Worker Retraining, and School-to-Work, among others.

Many of the cuts and program terminations requested by the President have been adopted. Most, however, have not. This is to me the greatest concern with the bill.

As we look at the next 5 years, this subcommittee's budget will be extremely constrained. We will not have the resources to meet all the needs in the programs we oversee. We will therefore necessarily be forced to make difficult choices and we will have to choose among competing priorities. This is as it should be and what I have been urging since I came to Congress.

I reject the idea that these cuts should be distributed equally. So does the chairman. We must choose our highest priorities, fund them at the level they should be funded at, and then make the difficult offsetting cuts to pay for them.

The President began the process by proposing—courageously and responsibly in my judgment—to reduce the Low Income Home Energy Assistance Program [LIHEAP] and to eliminate 33 low priority programs in the Department of Education.

While I congratulate Chairman SMITH for including about one-third of the proposed reductions in his mark, I believe we should have approved the entire proposal to free up more funding for priority programs.

Mr. Chairman, I want to discuss some of the provisions in the bill.

First, I am greatly concerned about the impact aid funding included in the bill. It represents a \$70 million reduction from the 1994 level and will impose a further hardship on many schools

which must subsidize federally connected students.

I want to thank the chairman for his willingness to include \$40 million in the newly authorized section of which serves the most heavily impacted districts. This funding will help provide much needed funding for schools like the North Chicago School District in Illinois which nearly closed its doors last year due in part to the lag in impact aid appropriations.

Mr. Chairman, I am also very concerned about the level of funding for the National Institutes of Health which I believe are a national treasure.

Again, I want to thank the chairman for working together to provide a \$384 million increase for the NIH in this bill. But, I want to raise a real warning about the future of biomedical research in this country. The increase we are providing in this bill is less than inflation so we are actually going backward in research funding—the area that holds the greatest promise for controlling health care costs.

Many in Congress still believes that research is driving up the cost of health care. In reality, research is saving us billions of dollars through vaccines, prevention, and early treatment and diagnosis of disease. Just one medical advance, the development of the polio vaccine, has saved Americans more money in prevented health care costs than Congress has invested in NIH in its entire history. NIH has a booklet detailing 26 discoveries—a tiny fraction of the thousands made—that have saved hundreds of billions of dollars in health care costs.

Mr. Chairman, if we are not willing to make the long term sacrifices to maintain this vital enterprise, we will lose our world leadership in health care, our economic vigor in this large sector of the economy, and a generation of scientific minds. Later, I will offer an amendment for discussion on this matter to highlight what I consider an impending crisis for our country.

The bill includes important increases for education programs which help disadvantaged children.

In particular, the bill funds the Even Start program which Mr. GOODLING has championed and early transitional learning programs that may continue programs currently funded under the follow through program.

On the medical research side, the bill provides modest increases for breast and prostate cancer research, AIDS, diabetes, rehabilitation research, chronic fatigue syndrome, and dystonia among others.

The report which accompanies the bill contains some language I authored regarding the establishment of a Federal warehouse to distribute vaccines to children under the new vaccine entitlement. Throughout this appropriations cycle, I have expressed my con-

cern about the wisdom of creating a Federal distribution system as opposed to contracting out the service. My report language directs the CDC and GSA to comply with all applicable FDA safety guidelines and reserves a final judgment on whether to establish the Federal warehouse pending the outcome of a GAO study on the matter due in July.

Finally, Mr. Chairman, we have a chance today to begin the process of enacting meaningful health care reform.

I intend to offer an amendment at the appropriate time to increase funding for the community health centers to expand access to health care for nearly 1 million Americans. The amendment will offset funding in other accounts so that neither the outlay or authority caps will be breached.

Mr. Chairman, I want to thank Chairman SMITH's very fine staff: Mike Stephens, Bob Knisely, Sue Quantius, Mark Miodusky, Joanne Orndorff, Meg Holland, and my excellent and able staffer, Mike Myers. Also Mr. MCDADE's staff, John Blazey.

Mr. Chairman, I commend this bill to the House and reserve the balance of my time.

□ 1520

Mr. SMITH of Iowa. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. STOKES], chairman of the Subcommittee on VA, HUD and Independent Agencies.

Mr. STOKES. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of H.R. 4606, the bill establishing fiscal year 1995 appropriations for the Departments of Labor, Health and Human Services, and Education. Mr. Speaker, for many years I have been one of the members of this subcommittee who have put this particular bill together. This is the bill that our beloved but now deceased former chairman, Bill Natcher or Kentucky used to call the "People's Bill."

This is the first time that we have come to the floor with this bill under the leadership of the gentleman from Iowa, Mr. NEAL SMITH. I want to congratulate him for bringing out a bill which I think would have pleased Bill Natcher. I also commend the gentleman from Illinois, Mr. JOHN PORTER, for his work in producing this bill.

Although we faced tight budget constraints, H.R. 4606 will greatly benefit American families. The bill provides the resources necessary for an improved quality of life in areas ranging from employment, to health, to education.

For the Department of Labor, the bill includes a total appropriation of \$13.3 billion. This amount includes \$1.3 billion for dislocated workers assistance. These resources will enable the program to respond not only more quickly

to the need for assistance, but to also provide more effective early intervention activities. For summer youth employment, the bill includes \$1.1 billion. This program will provide work experience and support services to an estimated 623,000 participants.

For Job Corps, the bill includes \$1.1 billion. These resources will support 42,220 slots at 111 existing centers, and initial funding for an additional 6 new Job Corps Centers. To help ensure a more successful and effective transition from school to work, the bill includes \$140 million for the school-to-work initiative.

The Department of Health and Human Services is provided an appropriation totalling \$216.4 billion. Mr. Speaker, I am especially proud of the quality of life investments we also achieved in this portion of the bill. To provide comprehensive primary health care services to the medically underserved and indigent population the bill includes a \$616.6 million appropriation for the Nation's community health centers. As a strong supporter of providing quality health care services to all Americans, I am pleased that we were able to provide \$9.7 million to enhance primary care services, health screening, and health counseling services to residents of public housing.

To help ensure a continuous pipeline of minority health care providers, the bill includes \$27.2 million for the Health Careers Opportunity Program, \$11.3 million for the Exceptional Financial Need Scholarships Program, \$8.7 million for the health professions student loans, and \$18.6 million in funding for the Scholarships for Disadvantaged Students Program.

To enable the NIH to continue to exploit opportunities in biomedical research that will continue to improve the quality of life, the committee provided an appropriation of \$11.3 billion. This amount includes the resources needed to strengthen research efforts in cancer, heart disease, stroke, AIDS, diabetes, and sickle cell disease. These resources will allow NIH to expand research in many areas including vaccine development, gene therapy, immunology, molecular biology, biotechnology, and high performance computing.

To strengthen the participation of minorities in biomedical research, the funding for the NIH includes \$17 million for the Minority Access to Research Careers Program, \$26.2 million for the Research Centers in Minority Institutions Program, and \$5 million for biomedical facilities construction at emerging institutions. In addition, the Minority Biomedical Research Support Program is provided \$37.3 million. Combined, these investments will help to improve and enhance minority institutions' participation in biomedical research, as well as to increase opportunities for minority students to pursue research careers.

Mr. Chairman, we were also very supportive of the need to fund important initiatives undertaken by the Centers for Disease Control. The Center is in the forefront in addressing the health crisis gripping the Nation. In fiscal year 1995, the Centers for Disease Control will benefit from an appropriation totaling \$2.1 billion. These funds will allow the Center to continue its important research in areas including AIDS, diabetes, breast and cervical cancer screening, tuberculosis, lead poisoning prevention, and violence prevention.

To help prevent the crisis that recipients needing energy assistance would have been forced to endure, we provided \$1.2 billion for the Low Income Home Energy Assistance Program [LIHEAP]. President Clinton's budget request had slated the program for a 50 percent funding cut. This important program provides assistance to low income households in meeting the high costs associated with home energy, heating, and cooling.

To strengthen and expand the Head Start Program, a \$3.5 billion appropriation is provided.

Mr. Chairman, in response to the need to strengthen our Nation's education system. The committee provided investments at all levels of the education continuum. To begin to improve the Nation's education system, the bill includes \$388.4 million for Education Goals: 2000, and \$140 million for the Education Department's the school-to-work initiative. To expand the benefits of magnet schools, the fiscal year 1995 appropriation for the program is slated at \$113 million.

For the TRIO Program which serves disadvantaged students, the committee provided an appropriation totaling \$463 million for fiscal year 1995. The additional funds provided will allow an increased number of needy students to reap the benefits of this successful program.

Historically black colleges and universities will also benefit from investments. A combined appropriation of \$131.5 million is provided for these institutions to strengthen academic and physical infrastructure. Funds provided include enhancements for academic instruction, libraries, scientific instrumentation, and student support services.

Mr. Chairman, as you and my colleagues can see, H.R. 4606 is truly a human investment bill. This is reflected by investments in programs that meet the needs of our Nation's youth and families through greater investments in the Head Start, childhood immunization, Job Corps, school-to-work, summer youth employment and training, student aid, and dislocated workers programs. As the allocations reflect, the committee took a firm stance in providing for the health, education, and human resource needs of American families.

Mr. Chairman, I urge my colleagues to support passage of H.R. 4606 which will improve the quality of life for all Americans.

Mr. PORTER. Mr. Chairman, I am very pleased to yield 6 minutes to the gentleman from Texas [Mr. BONILLA], a member of the subcommittee.

Mr. BONILLA. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise to join the distinguished gentleman from Iowa to, as Chairman Natcher used to say, walk down the center of the aisle today in support of the people's bill.

This bill helps Americans become more educated, develop the training tools to advance in the job sector, and prevent illness or treat an illness if you become sick.

This bill affects and protects almost every American in a fiscally responsible manner. I want to commend my chairman, Mr. SMITH, and my ranking member, Mr. PORTER, and their hard-working staffers for their dedication in crafting this bill.

Mr. SMITH had to lead the subcommittee after the death of our beloved chairman, Mr. Natcher.

Mr. SMITH assumed the reins and has worked in a fair, equitable, and bipartisan manner to produce a good bill.

I want to highlight a few very important programs to my rural colleagues, who often share my view that Congress turns its back on the heartland.

This is the second year that I have had the opportunity to advocate and secure funding to improve access to rural Americans.

This bill takes another step to provide equity and quality of health care in our rural communities.

Funding for community and migrant health care centers reflects the increased need to provide comprehensive primary health care in our rural communities. Last year, these clinics served over 6.5 million people.

The area health education centers and border health centers funding has been given increases.

The AHEC Program links university health service centers with community health service delivery systems to provide training sites for students, faculty, and practitioners.

The border health education centers help schools support education and training centers to improve the supply, distribution, and quality of health personnel along the border between the United States and Mexico.

Other rural programs include transition grants, the allied health grants that address the growing shortage of allied health personnel in both rural and urban areas, the Physicians Assistants Program which delivers health care and emergency services in rural areas.

This program is especially important to the health of rural Americans.

The Family Medicine Residencies Program has been funded to provide

grants to medical schools to teach family medicine programs which are greatly needed to fill the demand for doctors in rural America.

The rural health research and rural outreach grants are funded to coordinate public and private sector efforts nationwide to strengthen and improve the delivery of health services to populations in rural areas.

They provide health services to rural populations not currently receiving them and enhance access to and utilization of existing services.

Finally, we have tried to fund the nursing programs at last year's levels. In my rural district of Texas, 23 of my 29 counties are classified as professional health care shortage areas. All of these programs collectively try to improve access to health care. These are all very small programs compared to other line items in this bill but they help a large portion of population living in our rural communities.

I am pleased that the committee included funding to initiate the Hispanic serving institutions. This is the first year that HSI's have been given their own line in the budget and also received an increase of \$2.6 million for a total of \$12 million for HSI's.

I am extremely pleased that we have funded this program to help either low-income or first generation college students.

Growing up on the southside of San Antonio I saw many of my friends unable to afford to go to school.

Funding for the HSI's program will be a small step to help Hispanics increase their numbers in our Nation's higher education systems. I look forward to hearing of the successes by Hispanic students who will be able to take advantage of this program.

Finally, this bill also recognizes the need to prevent, treat, and educate Americans about diabetes. Persons with diabetes face not only a shortened life span, but also the strong likelihood of severe disabilities.

Diabetes is particularly prevalent among Hispanics. The committee has wisely provided additional funding to continue a national diabetes program.

Regarding diabetes research, the bill recognizes the need to continue research efforts to combat diabetes. Diabetes is the leading cause of new adult blindness, kidney failure, and nontraumatic amputation, and it is a major risk factor for stroke, heart attack, and premature death to the estimated 13 to 14 million people who currently have diabetes. Further research will be carried out to isolate the diabetes gene and will increase efforts to educate the public about preventing blindness.

I wish we could have done more for some worthy programs but unfortunately the President sent us a request for 14 new Presidential initiatives. The chairman was generous enough to fund those requests at 46 cents on the dollar.

The President should have made the tough decisions, but I will tell you that in conference I will support the lower figure for each of his initiatives.

Again, Mr. Chairman this appropriations bill is a good one. There are no easy choices in this subcommittee yet we must step up to the plate and do the best we can.

For every dollar shift from one program, another program that serves an equally important constituency must be cut. I believe this bill can be improved and Mr. PORTER will be offering two amendments to do that.

Overall, this bill is fiscally responsible and provides for this country's needs.

□ 1530

Mr. SMITH of Iowa. Mr. Chairman, I yield 4 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise in strong support of the legislation before us today, the fiscal year 1995 labor, health and human services, and education appropriations bill.

As a member of the subcommittee, I know how difficult it was to put this bill together. As we all know, the budget pressure was immense. We were able to give important programs like Ryan White, title I, Goals 2000 and Head Start only a fraction of the increases the President requested—and that they should have received.

But this was also a difficult year for other reasons: the loss of Chairman Natcher this spring was a great loss to this institution. Programs that Mr. Natcher funded, based on his steadfast belief in investing in human capital, will serve this country for decades to come.

So with this bill, our subcommittee enters a new era: I want to salute our new chairman, my colleague and friend, Mr. SMITH of Iowa, for an excellent job done under far less than optimal circumstances.

I would particularly like to thank Chairman SMITH for his invaluable help with one of the most important issues addressed in this bill: The coordination and integration of services for children and families.

Mr. Chairman, back in February, Secretary Riley gave an inspired speech at Georgetown University in which he discussed service integration, one of the most urgent needs faced by young children and their families today.

In the complicated world we live in today, families and children need easy access to centralized services: education, social service, and health care programs should be brought together in one easily accessible location.

In his speech, Secretary Riley referred to just such a model, which he called "early childhood family centers." I believe we should be encouraging every community in this country

to work toward this goal. And, thanks to Chairman SMITH, this bill sets up a working group at the Department of Education, along with HHS and Labor, to make this vision a reality. I am very excited about this effort, and am hopeful that its work will enable us to better Marshall our precious Federal resources for children and their families.

I would also like to point out a provision in the committee report that should help us accomplish that end. The committee report encourages the Secretary of HHS to promote collocation of Head Start programs with public schools, health care and social services in approving facilities construction permitted by the reauthorization.

Mr. Chairman, I would prefer that our language here be even stronger than it is. When we are giving Head Start a mere 30 percent of the increase the President requested, I think it is entirely appropriate to urge that construction funds be used only to promote service integration through collocation. It gets our children and families the most for our money, recognizing that the money is far less than it should be given the need.

It is going to be a long process to weave service integration into the fabric of our Federal programs. Efforts like Congresswoman NITA LOWEY's link up for learning have already begun the process, as has Congresswoman LYNN WOOLSEY's coordinated services section of H.R. 6. The new title I program and the Head Start reauthorization also move in this direction, and so does the bill before you today.

I am looking forward to working with Chairman SMITH and my subcommittee colleagues on this important undertaking, as well as with the authorizing committees on both sides of the Capitol and on both sides of the aisle.

In closing, I would like to thank the subcommittee staff for their fine work in putting this bill together. Mike Stephens, Bob Knisely, Sue Quanius, Mark Mioduski, Joanne Orndorff, and Meg Holland have all been a pleasure to work with. As Mr. Natcher always said, this is the people's bill, and I commend it to my colleagues.

Mr. PORTER. Mr. Chairman, I yield 4½ minutes to the gentleman from Pennsylvania [Mr. GOODLING], the very distinguished ranking member of the Committee on Education and Labor.

Mr. GOODLING. Mr. Chairman, I rise in support of H.R. 4606, the fiscal year 1995 appropriations bill for the Departments of Labor, HHS, Education and Related Agencies. I note with sadness that this is the first Labor, HHS appropriations bill in many years to come to the floor that is not being managed by our late colleague, Mr. Natcher. I do want to commend chairmen OBEY and SMITH, and ranking Republicans MCDADE and PORTER for carrying on and keeping the process moving. How-

ever, Mr. Natcher will never truly be replaced.

While I do plan on voting for this bill, it does not mean that I am completely satisfied with everything in this massive appropriations bill. For example, I would have preferred that the Appropriations Committee eliminate the funding for more of the programs that the administration had recommended cutting. Nevertheless, I think the Appropriations Committee deserves credit for bringing this bill before us under the tight constraints of the budget caps. In addition, I would like to comment on some specific areas of this bill that touch upon programs authorized by the Education and Labor Committee, of which I am the Ranking Republican.

EDUCATION

Mr. Chairman, I am extremely pleased by the generous increase provided to the Even Start family literacy program. Illiteracy is one of the biggest problems facing our country, and these programs will play a key role in welfare reform and crime reduction efforts. Even Start addresses these concerns from a family perspective, providing for the literacy and education needs of parents as well as their children. It provides parents with education and parent training. In addition, it provides their children with an early childhood education program. The family literacy approach embodied in Even Start will help us ensure participating children never experience the problems faced by their parents—it helps break the cycle of poverty. Through this investment in Even Start, we are helping to insure a literate, well-trained work force as well as preventing welfare dependency and involvement in criminal activities. I thank my colleagues on the Appropriations Committee for their support for this important, effective program.

I was also pleased to note that the Appropriations Committee has not agreed with the administration's proposal to eliminate the chapter 2 program. Chapter 2 provides local school districts with the only flexible Federal dollars they can use for innovative, locally developed programs to improve the educational achievement of their students. Both the House and Senate authorizing committees have continued this important program in the elementary, secondary education reauthorization bills, and I am hopeful that the final Labor, HHS appropriations bill will include a similar amount or more for the chapter 2 program.

I want to commend the Appropriations Committee, particularly my colleague Mr. BONILLA, for addressing what has become known as the "85/15 rule." This rule states that Institutions of Higher Education must have at least 15 percent of their revenues generated from sources that are not derived from funds provided under title

IV of the Higher Education Act. Many Members on both sides of the aisle have expressed serious reservations about the Department of Education's intent to apply the regulation implementing this section of the 1992 amendments to a period of time prior to the effective date of the regulation. The Appropriations Committee's delay in the effective date of this regulation will allow institutions sufficient time to comply with its intent. As a result, quality training institutions will not be forced out of the program for failing to comply with confusing and unforeseen accounting rules. I will oppose any efforts to strike this provision from the appropriations bill and hope that my colleagues do likewise.

I am pleased to see that the committee has included in its report, language regarding the Department of Education's plans to expand current regulations to provide supplementary services to special populations under the Carl D. Perkins Vocational and Applied Technology Education Act. The report states the committee's concerns about the policy implications of any expansion of current regulations and encourages the Department to consider submitting any new regulatory changes to the negotiated rulemaking process. While I have hoped the committee would prohibit the Department from issuing any new regulations on this issue, I support the committee's approach. I strongly believe that the Department's proposed regulations will impose an unfunded mandate on States and local school districts and cause confusion and disruption in the States and local school districts. This issue should be addressed during the reauthorization of the Carl Perkins Vocational Education Act next year and I urge the Department to reconsider their position.

There are several funding recommendations in this bill for Education programs that cause me concern, but there is one in particular that I have complained about for years; and that is the funding for children with disabilities. Under the Individual With Disabilities Education Act, schools are legally obligated to provide all the special education services children need, regardless of the Federal appropriation. Congress currently provides only 7 percent of the costs of special education required by the law. This is a distant cry from the 40 percent funding level Congress said it would provide by 1983. In today's dollars, \$315 million additional funding would be needed to increase the Federal commitment to special education costs by just 1 percent.

In my testimony before the Labor, HHS Appropriations Subcommittee, I recommended an increase in funding for the part B State grant program, and I am disappointed that the committee only maintained level funding between fiscal year 1994 and fiscal year

1995. It is unfair to the States and school districts and families of children with disabilities for Congress to continue ignoring the commitment it made to this program. This is a classic example of an unfunded mandate.

HUMAN RESOURCES

Everyone will deny it, but it is hard to avoid the "coincidence" that has linked the budgets for Head Start and the Low-Income Home Energy Assistance Program [LIHEAP] during this appropriations cycle. It began when the administration requested a \$700 million increase for Head Start, and at the same time requested a \$700 million decrease for LIHEAP. I have previously stated my opinion that Congress should resist the temptation to continually throw more money at a politically popular Head Start Program that is suffering from severe growing pains. Instead, I think we should wait until the new quality assurance mechanisms included in the recently enacted reauthorization are implemented before providing increased funding for Head Start. On the other hand, LIHEAP is a program that consistently achieves its purpose, and this past unusually harsh winter proved the importance of a program that helps low-income households heat their homes.

While I would have done it differently, I do respect the Appropriations Committee's more reasonable trade-off between Head Start and LIHEAP. Head Start received, in this bill, an increase of \$210 million, one of its smallest increases in several years. On the other hand, LIHEAP funding was decreased by \$250 million, which is much more rational than the administration's recommended 50 percent slashing of the program.

JOB TRAINING

In the area of job training, I commend the Appropriations Committee for recognizing programs for dislocated workers, school-to-work transition, and funding for the one-stop delivery of job training services as priorities in the Labor, HHS, education appropriations bill. In saying this however, I do want to express my growing concern over the vast number of Federal programs we have developed over the years that provide education, training, and employment assistance to adults and out-of-school youth. I urge members of the Appropriations Committee, as well as all Members of the House to join with us in making sense out of this fragmented system prior to consideration of the next funding cycle.

To address this concern, I recently introduced the Consolidated and Reformed Education, Employment, and Retraining Systems Act—the CAREERS Act—that would consolidate over 80 separate programs—as identified by the GAO—into seven block grant systems. Under this legislation, States and localities would be provided with streamlined and more flexible

funding for further reform of work force preparation systems. Such consolidation is expected to result in administrative savings over time, and in much more efficient and high quality systems. Again, I encourage the Appropriations Committee to work with those of us on the authorizing committee in the coming year to develop a true system of work force preparation in this Nation that is both efficient and effective, similar to that envisioned in the CAREERS Act.

LABOR

On the Labor front, I am opposed to a provision in the bill which prohibits the Department of Labor from implementing or administering the Davis-Bacon Act "helper" regulations. The helper regulations authorize the use of semiskilled workers, working under the direct supervision of higher-skilled journey-level workers, to be employed on Federal construction projects. After nearly a decade of court challenges, the helper regulations have been found to be fully consistent with the language and purpose of the Davis-Bacon Act. I would like to point out that identical language was contained in the fiscal year 1994 Labor-HHS-Education appropriations bill. This was accompanied by committee report language which stated that the conferees were taking the action on a one-time basis and that further action should be taken by the authorizing committee of jurisdiction. As this provision constitutes a significant, questionable change under the Davis-Bacon Act, this issue should be considered in the Committee on Education and Labor, and not addressed through a rider attached to an appropriations bill.

Regarding another Labor issue, the Appropriations Committee has recommended a total appropriation of \$312.5 million for the Occupational Safety and Health Administration, an increase of \$16 million over 1994. While I will not argue with the total amount of the appropriation, I note that OSHA's budget for enforcement activities would be increased by about \$10 million, or more than 5 percent, while "compliance" activities are increased only by about 2 percent. Unfortunately, that seems to reflect that prevailing priorities over at the Department of Labor these days as well—although they talk about wanting to promote "cooperation" with employers, all we see coming out of the agency these days is a heavy emphasis on enforcement. You can fool people only so long before they see that what you are really doing is discouraging business with heavy fines, and then business will understandably go elsewhere.

In addition, the Appropriations Committee would begin to fund, at about \$3 million in the first year, an expensive new data collection program by OSHA. The problem is that we do not yet know what that data program is going

to look like—OSHA has not proposed regulations and the report that they were supposed to issue in March, to answer questions about their intentions, is still not here. From what has been released, I would say that there are going to be some very controversial parts to what is proposed, and so it may never get off the ground. So I would hope that this \$3 million in new money that is allocated for data collection by OSHA would not be spent until we have a much better idea of what kind of data collection program OSHA is proposing.

CLOSING

In closing, Mr. Chairman, I want to once again commend the Appropriations Committee for their hard work in bringing this bill to the floor today. As I said, I do not agree with everything in it, but taken as a whole it is definitely a bill I can support.

□ 1540

Mr. SMITH of Iowa. Mr. Chairman, I yield 2½ minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of the Labor, Health and Human Services, and Education appropriations bill for fiscal year 1995. This legislation includes funding for the highest priority domestic programs. It deserves your support.

As our colleagues know, this has been a difficult year for our subcommittee, the Appropriations Committee, and the Congress. We were all saddened by the illness and eventual passing of our distinguished chairman, Mr. Natcher of Kentucky. It is difficult to express how much we miss him. He was one of a kind and a joy to his colleagues. If he were here, Chairman Natcher would surely tell you that "this is a good bill." And it is.

Let me begin by expressing my thanks and my admiration for our acting chairman, Mr. SMITH of Iowa. He has taken up where Mr. Natcher left off and has worked with the members of the subcommittee to shape a bill that responds to the many challenges that face our country.

I believe that the strength of our country is defined by the health, education, and well-being of our people. President Clinton honored his commitment of putting people first by his investments funded in this subcommittee—for jobs, health and human services, and education.

Mr. Chairman, this bill has been developed within the budget discipline required by the Revised Budget Enforcement Act. Discretionary spending for fiscal year 1995 will actually be less than spending for this year—the first reduction in discretionary spending since 1969.

While budget discipline is necessary, it is particularly painful when it comes

to this bill. Virtually every program in this subcommittee's jurisdiction is deserving of higher levels of funding. As I frequently tell our chairman, there are no bad programs in our bill. That makes deliberations over relative priorities very difficult work.

I particularly commend Chairman SMITH for his leadership in shaping the public health prevention initiative in this legislation. Through our extensive hearings, it became clear that before doing anything else, the committee had to rebuild basic public health prevention programs. Thus, the bill contains \$160 million in new funding for a package of 14 programs at the Centers for Disease Control and Prevention [CDC] and the Health Resources and Services Administration [HRSA].

The bill contains increased funding for the CDC to fund unmet needs identified by the nearly 300 community-level planning groups across the country implementing HIV prevention reform. These HIV prevention reforms, along with the new strategic planning authority and other reforms at the Office of AIDS Research at the National Institutes of Health, bring new hope to our Federal AIDS response.

This bill also contains funding which responds to many challenges regarding women's health. Funding for breast cancer research is increased by 17 percent at the National Cancer Institute. Funding for breast and cervical cancer screening at the CDC is increased by 22 percent triggering important provisions in the authorizing legislation allowing more comprehensive preventive health evaluations for low-income women. Funding for the Office on Women's Health at the Public Health Service is tripled to \$3 million. Funding for control of sexually transmitted diseases is increased to allow for chlamydia and other diseases of concern to women.

The bill also provides for significant increases for the investments outlined in the President's budget request—including the National Institutes of Health, Head Start, drug treatment, and an initiative to respond to the backlog in disability claims at the Social Security Administration.

The Department of Labor has received well-deserved new resources to respond to the needs of dislocated workers and disadvantaged youth. The bill contains funds to continue our commitment to expand on Jobs Corps programs and funding to maintain the Summer Youth Employment and Training Program. Both the Department of Labor and the Department of Education have received significant new funding to implement the School-to-Work Program for individuals not intending to seek higher education.

The bill also provides significantly increased funding for implementing Goals 2000 and compensatory education as authorized in the Elementary and

Secondary Education Act. The bill continues a major commitment to higher education.

Mr. Chairman, this bill is an investment in the health and well-being of the American people. Again, I commend our chairman and I thank the subcommittee staff for their hard work and skill in assisting the subcommittee in developing this important legislation. I urge my colleagues to support this bill.

Mr. PORTER. Mr. Chairman, I am pleased to yield 3 minutes to the distinguished gentleman from Texas [Mr. SMITH].

Mr. SMITH of Texas. Mr. Chairman, I thank my good friend, the gentleman from Illinois, for yielding time to me.

Mr. Chairman, the White House's fiscal year 1995 budget would have abolished all funding for the Adolescent Family Life Program, the sole program in the entire Federal Government with the responsibility of promoting abstinence among teenagers. While the AFL only costs about \$7 million a year, it was still deemed too much.

The advantages of teenage abstinence are obvious. It is the only guarantee against unwanted pregnancy. It is the only guarantee against sexually transmitted diseases. And while it is not a guarantee against social problems, like welfare dependency, it is the best first step we have.

Fortunately, the AFL's pluses were apparent to my friends Chairman NEAL SMITH and ranking Republican JOHN PORTER of the Subcommittee on Labor-HHS-Education. With their help, the AFL's funding has been restored in this bill.

Abstinence as a Federal program should not disappear. Among the \$700 billion the Department of Health and Human Services will spend and the \$50 million the Federal Government will spend to provide contraceptive services to America's young people, there is still room for the ray of hope that the AFL offers.

It is a message of hope and values that young people are seeking.

When Emory University asked 2,000 young, sexually active girls what they would like most to be taught in a pregnancy-prevention class, more than four out of five answered: "How to say no without hurting the other person's feelings."

Students of both sexes in Emory's Postponing Sexual Involvement program were five times less likely to become sexually active than students on average.

In a recent story on Norplant, the long-term contraceptive provided in Baltimore public schools, ABC News reported that of the students they talked to, every single one of these sexually active girls confided to us they wish they'd said no (to sex)."

Asked how long they wish they had waited, all the girls responded: until marriage.

Patricia Funderburk-Ware, former head of the AFL program, has written:

The sad part is that abstinence until marriage probably was not seriously presented as a viable option for these girls. Someone made a judgment that it was unrealistic—an unacceptable concept for them—perhaps because most were black, poor and in the inner city.

I would say to my colleagues, if we're not going to spend as much on abstinence as we spend on contraceptives, at least we should be spending something. Teenagers may not read the Federal budget, but they're smart enough to figure out what message Uncle Sam is sending. The AFL program makes that a message of hope.

The Adolescent Family Life Program tells our children that we have enough faith in them to offer more than just contraception. Promoting abstinence tells our young people that we care about them enough to do more than just abandon them to the pressures of adolescence and then try to minimize the physiological damage.

My colleagues, I ask for your support to continue Federal funding of teen abstinence programs. Respect for the dignity of our children demands no less.

Mr. SMITH of Iowa. I yield 4 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, I rise in strong support of H.R. 4606, a bill to make appropriations for the Departments of Labor, Health, and Human Services and Education, and related agencies for fiscal year 1995.

I want to begin by joining my colleagues in commemorating the service of the late subcommittee chairman, Bill Natcher, who led this panel so capably and with such devotion for 14 years. It is impossible to replace a legendary figure like Chairman Natcher. But I am pleased to say that this most vital bill now rests in the very dedicated and sure hands of Congressman NEIL SMITH, the new subcommittee chairman.

I congratulate Chairman SMITH and his outstanding staff headed by Mike Stephens for meeting, head-on, the difficult challenges we faced in developing the fiscal year 1995 bill. As much as any other subcommittee, the Labor-HHS panel is the testing ground for how Congress will respond to the fiscal and social realities facing our Nation.

Stated simply, we must cut and invest. We must continue the difficult job we started in 1993 by steadily reducing the Federal deficit. At the same time, we must seize this opportunity to reorient our budget priorities toward investments in the building blocks of our economy and society: our people. The bill Chairman SMITH and the subcommittee members bring to the floor today meets that test.

The \$252.3 billion provided by this bill represents a cut of \$7.1 billion below the fiscal year 1994 bill. In addition,

H.R. 4606 provides nearly \$2 billion less than the amount requested by the President and eliminates 21 Federal programs. This is a tough bill, containing cuts which many will find difficult to accept. But the fiscal and social problems confronting this country demand tough choices, so we can focus our limited resources where they are needed most—in programs that address crime, economic competitiveness, public health, and the breakdown of our families and communities.

The investments contained in H.R. 4606 will expand economic opportunities for dislocated workers, jump-start nationwide school reform, provide increased support for preventive health and biomedical research, respond to pressing public health threats, such as AIDS and TB, and continue the expansion of successful programs, including Head Start and Job Corps.

DEPARTMENT OF LABOR

I want to take this opportunity to focus on a number of investments which address some of our Nation's most pressing needs. In the Department of Labor, the subcommittee included significant investments in worker retraining, the implementation of the new School-to-Work Opportunities Act, the development of a nationwide system of one-stop career centers, and a special initiative designed to improve compliance with Federal requirements related to worker safety and fair labor practices.

These are investments in our Nation's most valuable resource: the potential of our people. These are investments which will pay back dividends many times over in enhanced economic opportunity and competitiveness. If we are to rebuild our communities, fight crime, and promote families, we must offer our people the chance to obtain marketable skills. The investments in this bill will bring us significantly closer to those goals.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

In the Department of Health and Human Services, the bill provides an additional investment of \$384 million in the National Institutes of Health [NIH], raising total expenditures for NIH to \$11.3 billion. Included in that increase is a \$50 million expansion for breast cancer research, which is critical to maintaining our commitment to finding a cure for this devastating illness which kills 46,000 American women each year. Under the bill, total NIH expenditures for breast cancer research will exceed \$350 million in fiscal year 1995. This represents a 58-percent increase during the past 2 years.

Like many of my colleagues, I would have preferred to allocate even more to the NIH. Few, if any, Federal expenditures support such high quality of work and return so much in terms of improving our Nation's quality of life. It should be noted, however, that with the exception of one program, NIH re-

ceived the highest percentage of any of the administration's investment requests.

I also want to mention the preventive health initiative, which my colleagues, Representative PELOSI and Representative DELAURO, and I crafted in close cooperation with the chairman and other members of the panel. The initiative consists of increases totaling \$146 million for a number of important programs, including the Breast and Cervical Cancer Screening program, Community Health Centers, AIDS prevention and education, sexually transmitted disease prevention, infectious diseases, and family planning. These investments are both a response to pressing public health concerns and an important downpayment on health care reform.

The prevention initiative will provide critical new resources to help New York address ongoing public health crisis, including AIDS and TB as well as growing problems that demand greater attention, including sexually transmitted diseases, Lyme disease, foodborne diseases, hantavirus, hepatitis, and infectious diseases in child care settings. Expanded funding for family planning services will be critical to any strategy to address the teen pregnancy crisis in this country.

With regard to the Low-Income Home Energy Assistance Program [LIHEAP], the subcommittee restored \$495 million to the program out of a total cut of \$745 million requested by the administration. Despite claims that relatively stable oil prices have eliminated the need for this program, the simple truth is that millions of Americans continue to struggle to meet their heating expenses. For over 1 million New Yorkers, LIHEAP is a lifeline that protects them from freezing temperatures and, in some cases, homelessness. The drastic cut proposed by the administration would have had devastating consequences for New York and the Nation.

While there are a number of accounts in the bill that—resources permitting—would have merited higher levels of funding, I want to express strong support for providing additional funds for the Child Care and Development Block Grant. H.R. 4606 provides an increase of \$42 million over fiscal year 1994. This amounts to only 21 percent of the administration's requested increase for the program.

Child care is essential to any strategy for improving the life chances of low-income working families. Child care is a prerequisite for ending welfare dependency and enabling parents to obtain marketable skills. I will continue to work to see that we enhance the funding level for the child care and development block grant before this measure reaches the President's desk.

DEPARTMENT OF EDUCATION

In the Department of Education, in addition to investments in education

reform and school-to-work transition, the bill increases funding for the reauthorized title I program by \$334 million. The bill also includes \$30 million for the State Postsecondary Review Program [SPRE] which is establishing a crucial Federal-State partnership for improving the integrity and effectiveness of Federal student aid programs. Student aid programs are estimated to lose approximately \$4 billion per year to waste and fraud. It is essential that the Education Department give the highest priority to implementing the SPRE program as soon as possible.

I am also pleased that the subcommittee included \$3.1 million for the newly established Early Intervention Scholarship and Partnership Program. This is approximately \$1 million over last year's funding level. I want to reiterate the subcommittee's recommendation that the Department include the Early Intervention Program as a central component of a comprehensive strategy aimed at helping at-risk teens prepare for higher education.

THE HYDE AMENDMENT

I am clearly disappointed that we are unable to lift the Hyde amendment from this appropriations bill. The Hyde amendment is a punitive policy that discriminates against poor women by denying them access to basic health care, which includes the full range of reproductive health care services, including abortion. We must continue working to erase the two-tiered system of health care which jeopardizes poor women's health, and renders the right to choose meaningless for far too many women.

Health care reform, however, presents us with a historic opportunity to address inequities in women's health care, and I am hopeful now that we can focus our attention on winning the battle to ensure that all women, regardless of income, have comprehensive reproductive health care, including abortion.

Mr. Chairman, this is a challenging time to be a member of the Labor-HHS Subcommittee, because so much is at stake and our resources are so scarce. The American people are demanding performance and accountability from Government. The only way that Congress can fulfill that mandate is to embrace the tough choices and invest aggressively in what works. H.R. 4606 does that. I urge my colleagues to give this bill strong support.

□ 1550

Mr. Chairman, I would like to engage the gentleman from Iowa in a colloquy concerning the Higher Education Act, title IX-E, Minority Faculty Development Fellowship Program. I wish to clarify the committee's intent regarding the eligibility of institutions which participate in the program.

Mr. SMITH of Iowa. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I would be delighted to have a colloquy with the Congresswoman on this important program.

Mrs. LOWEY. The committee report language which accompanies H.R. 4606 indicates that fellowships are to be made available through institutions of higher education. I would appreciate it if the chairman would help me to clarify that the authorization legislation for title IX-E also sought to ensure that programmatic and fellowship support could be made available through consortia and other interinstitutional collaborations. It is my understanding, Mr. Chairman, that the committee intends that individual institutions, as well as consortia and other interinstitutional collaborations, be eligible to participate in the Minority Faculty Development Fellowship program.

Mr. SMITH of Iowa. Mr. Chairman, the gentlewoman from New York has correctly stated the committee's intent with regard to the institutions that are eligible to participate in the Title IX-E Program.

Mrs. LOWEY. Mr. Chairman, I thank the subcommittee chairman.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SERRANO], a very valuable member of the committee.

Mr. SERRANO. Mr. Chairman, I rise in strong support of H.R. 4606, the Labor-HHS-Education appropriations bill for fiscal year 1995.

I must first pay tribute to Chairman Bill Natcher, whose illness and death this year marked the loss of a legendary Member and the end of an era for this House.

The torch has passed to new leaders, particularly to our subcommittee chairman, NEAL SMITH. Chairman SMITH has done an extraordinary job on this bill, the largest and most complicated appropriations bill, and in many ways the most important to every person and family in the Nation.

Chairman SMITH worked closely with subcommittee members and consulted widely with full committee members and other Members of the House, the administration, and the public. He made the hard choices required to set priorities among the many vital programs in the bill, and, despite very difficult circumstances, crafted a very fair bill.

I don't imagine anyone, including Chairman SMITH, thinks this bill is perfect; it isn't. But with the resources the subcommittee was given to work with, it is as fair an allocation as could be hoped for.

One problem took some extra effort. The budget request actually cut funding for most disease prevention activities of the Center for Disease Control, but the subcommittee, working together, was able to identify savings

that made it possible to provide some increases for these vital public health functions.

I would certainly like to see more spending than the bill contains for Ryan White, for biomedical research and public health generally, for jobs and job training, for Head Start and programs for our children and families, for Goals 2000, but we simply weren't allocated enough money to do more.

My colleagues must recognize that H.R. 4606 is a very good bill and I urge all Members to support its passage.

Mr. PORTER. Mr. Chairman, I yield 2 minutes to my friend, the distinguished gentlewoman from Maryland [Mrs. MORELLA].

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute and 30 seconds to the gentlewoman from Maryland [Mrs. MORELLA].

The CHAIRMAN. The gentlewoman from Maryland [Mrs. MORELLA] is recognized for 3 minutes and 30 seconds.

Mrs. MORELLA. Mr. Chairman, I rise in support of H.R. 4606, the Labor-Health and Human Services-Education Appropriations bill for fiscal year 1995. I commend Chairman SMITH, the ranking minority member, Mr. PORTER, and the members of the subcommittee and committee for their efforts on this very difficult bill. With limited funding, the committee has managed to continue to fund critical health and human services, education, and labor programs. While I will be working to increase funding for several programs in the bill during conference, I respect and commend the members for their efforts.

Despite the extreme restrictions in funding, the committee provided \$384 million in increased funding for the National Institutes of Health. Even in this time of budgetary restrictions, we must continue to provide strong support for biomedical research.

I commend the committee for the increased funding provided for AIDS research, prevention, and services, substance abuse treatment, breast and cervical cancer screening, the Office of Research on Women's Health, and the injury control program, which helps fund domestic violence prevention efforts. I concur with the committee's report language urging that the highest priority be given to research on breast, cervical, ovarian, and prostate cancer within the increased appropriation for the National Cancer Institute.

I am also pleased that the committee included report language that I submitted urging the National Institutes of Health to give high priority to the Women's Interagency HIV Study, and to the development of a microbicide to prevent the spread of sexually transmitted diseases, including HIV infection, in both women and men. It is critical that women have a method of protection that they can use, with or without their partner's cooperation or knowledge.

I also commend the committee for increasing funding for the Women's Education Equity Act [WEEA]. This act promotes gender equity through the funding of educational programs, such as the Eisenhower Math and Science Educational Program, which was created to improve the skills of teachers and the quality of math and science instruction. Legislation which I introduced and which is included in WEEA will improve the effectiveness of the Eisenhower Programs by allowing training in gender-fair teaching practices in math and science, and by clarifying that informal educational opportunities will be eligible for funding.

The bill also includes increased funding for a number of other critical investments in education, job training, health, and human service programs. The committee has done the best possible job given the limited amount of funding, and I urge my colleagues to support the bill.

I wish to clarify the Appropriations Committee's intentions regarding funding for displaced homemakers. The committee urged the Department of Labor to improve access to longer-term intensive services. I want to clarify with the gentleman from Iowa that the committee's recommendation means that the Department should allocate funding for appropriate long-term services for displaced homemakers based on successful models currently being provided by displaced homemaker programs throughout the country.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mrs. MORELLA. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, the gentleman is correct.

Mrs. MORELLA. Mr. Chairman, displaced homemaker programs in my district and throughout the country need the resources to help women become economically self-sufficient.

I also wish to clarify the Appropriations Committee's intentions regarding funding for technical assistance and training for local displaced homemaker programs. There is a long history of committee support for Women Work!—formerly the National Displaced Homemakers Network—for the technical assistance and training services it provides to the more than 1,300 programs across the country. These services have a proven track record resulting in improved programs for displaced homemakers at the local level. The committee favors funding levels to maintain Women's Bureau support for customized technical assistance and training services for displaced homemaker programs at the same level as provided in fiscal year 1994.

Mr. SMITH of Iowa. Mr. Chairman, the gentleman is correct. The committee intends that the Women's Bureau maintain support for technical assistance and training for displaced

homemaker programs at the fiscal year 1994 level if possible. Women Work! has a long track record of being an effective provider of technical assistance and training to local programs. I have heard from many of my colleagues and from service providers around the country about the high quality and importance of the services that the network provides. We intend for the Women's Bureau to continue to provide technical assistance and training for displaced homemaker programs through effective programs such as Women Work!

□ 1600

Mr. SMITH of Iowa. Mr. Chairman, I yield 2½ minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, today, I strongly urge my colleagues to support the 1995 Labor-HHS-Education appropriations bill we have before us. By passing this legislation, we will help Americans and their families to address some of the toughest problems they face. If we adopt this bill, we can provide real help to: those who have lost their job or are looking for their first job; children who need special assistance so they can learn; people who are suffering from devastating diseases, such as cancer and AIDS; and students who need assistance in order to go to college.

As a member of the subcommittee that drafted this legislation, I cannot fully express to the House how difficult the choices were that had to be made in order to live within our discretionary budget allocation. It is fair to say, I believe, that none of us are 100 percent happy with the funding levels provided for every program in the bill—there is no doubt that several programs could use significantly greater resources.

So I commend our chairman, Mr. SMITH, for his leadership under these extremely difficult circumstances and for the wonderful job he did in assuming the chairmanship he inherited from Mr. Natcher. Chairman SMITH has brought to the House a finely crafted bill which brings much needed help to our working families and which responds to Americans' health and education needs. This is a good bill that reflects to the greatest extent possible the administration's priorities within very tight fiscal constraints.

I also want to commend our ranking member, Mr. PORTER, and all of my subcommittee colleagues for their consideration throughout our deliberations on the bill. Every member of the subcommittee worked very hard and made the difficult choices that had to be made in completing our work on the bill. I would also like to thank the subcommittee staff and other Members' staff for all of their hard work, as well.

Mr. Chairman, one of the subcommittee's most pressing priorities was to do

as much as possible to assure that all working people benefit from the economic recovery underway in some regions of our country. And there is good news about jobs. New jobs are being created, many of them good jobs.

At the same time, these continue to be the most difficult of times for many working men and women. The pace of mass layoffs is, if anything, increasing. Throughout our country, hard working people are losing their jobs, or living in fear of seeing their name show up on the next list of terminated employees.

Right now, as some in our economy prosper, working people are experiencing one of the highest rates of permanent job loss in history. Over 2 million of the 8 million currently unemployed have permanently lost their jobs, and often their careers. These workers are living through the highest rate of long-term unemployment ever recorded.

The administration made clear to the subcommittee that one of its highest priorities was to target additional assistance to help our Nation's unemployed workers find new, and hopefully better jobs. This bill does that. It includes a significant increase in funding for job retraining, and for the one-Stop-Shop initiative. These programs—guided by an administration committed to improving the services provided to unemployed workers—are bringing a new level of assistance to workers struggling to find new jobs, struggling to once again be able to contribute to a prosperous future for themselves, their families, and their communities.

The administration also made clear to the subcommittee that another key priority was to assure that all young people are given the opportunity to get the education and training they need to compete for good first jobs. Two key components of this effort are the School to Work Program and the summer jobs program. I'm pleased to say that the bill before you today includes significant increases for these two programs, and it also includes vital funding for college aid programs that make all the difference in allowing so many young people to reach their goal of earning a college degree.

And in order to make sure our children have the proper foundation to enable them to do well in school, we increased the Head Start Program by \$210 million. I was also pleased that, with our chairman's leadership, the subcommittee turned back efforts to cut impact aid targeted to the neediest of our students and school districts.

As a very strong supporter of biomedical research, I am not totally satisfied with what the committee was able to include for the National Institutes of Health. I believe it is critical that we maintain our commitment to biomedical research so we can continue to make advances in the prevention and treatment of disease.

However, even in the face of our tough budget constraints, we were able

to provide more than 70 percent of the administration's requested increase for the NIH—a total of \$11.32 billion—which is the largest percentage increase in the bill for any of the President's health investment initiatives. Within the NIH total provided, I am pleased that funding for breast cancer research will be increased by approximately 17 percent, and that the budget for AIDS research is also increased and consolidated in the Office of AIDS Research. I am also pleased to report that the committee rejected the administration's proposal for a pause in indirect research costs.

The committee was also able to provide increases above fiscal year 1994 levels for several important disease prevention and care programs including: \$22 million for the breast and cervical cancer screening program; \$63 million for AIDS prevention; \$13 million for community health centers; \$47 million for the Ryan White AIDS Care Programs; \$6 million for family planning; \$2 million for lead poisoning prevention; \$60 million for substance abuse treatment, and \$10 million to fight the spread of tuberculosis and sexually transmitted diseases. I want to again especially thank our chairman for his leadership in advancing the critical public health initiatives included in this bill.

Finally, I want to make sure the House knows that the subcommittee was able to restore almost all of the cuts the administration had proposed for the Low Income Home Energy Assistance Program. Thousands of senior citizens and low-income families depend on this program to help them keep their homes warm in the cold months. This past winter demonstrated how important LIHEAP is, and while we couldn't bring the program fully back to the fiscal year 1994 level, I want to thank my colleagues for their support in providing the highest level of funding possible given all the competing priorities in this bill.

Mr. Chairman, again, I urge my colleagues to support this important legislation. While I believe we could wisely spend additional resources on several programs funded in this bill, the committee has done the best job it could possibly do given the tough limit on discretionary spending we faced.

Mr. PORTER. Mr. Chairman, I am pleased to yield 2 minutes to the gentlewoman from Maryland [Mrs. BENTLEY], a very hard-working and able member of our subcommittee.

Mrs. BENTLEY. Mr. Chairman, as we begin consideration of the fiscal year 1995 Labor-HHS-Education appropriations bill, I want to take a brief moment to thank Chairman SMITH and his very capable staff for assembling a bill that I think is good for the country. I also want to thank my ranking member, Mr. PORTER, and his staff for their fine work during the course of a very lengthy hearing schedule.

Despite the fact that we all would have liked to have seen higher levels for the National Institutes of Health, headquartered in Bethesda, MD, this is a bill with which we can all live. I am pleased that the committee sought to increase programs such as Healthy Start which has done so much to help bring down the appallingly high levels of infant mortality which continue to plague many regions of the country. And I am pleased that the committee rose to meet the challenge of providing comprehensive, community-based services that will help alleviate this problem.

Community-based services are vital to accomplish what we are endeavoring to accomplish in improving the health of American citizens. We also need to set up community-based programs with our police departments to help the community in every way.

I am particularly pleased that the bill adequately addresses the issue of prevention of offering much needed assistance to many of our struggling young families through innovative programs such as Family Support Centers. In addition, this bill provides a much needed funding increase for in-home services for the frail elderly in order to provide seniors with the opportunity to live at home. There also are generous increases for programs that provide key services to the severely disabled, thus giving them the opportunity to remain independent. In remembering Chairman Bill Natcher for his years of diligent service at the helm of the Committee, I want to salute Chairman SMITH and the entire committee staff for moving diligently forward during the difficult transition following the death of Mr. Natcher.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I very much appreciate the gentleman from Iowa [Mr. SMITH] yielding time to me.

Mr. Chairman, I rise to enter into a colloquy with the chairman, the gentleman from Iowa [Mr. SMITH] and my colleague, the gentleman from California [Mr. BROWN].

Mr. Chairman, the gentleman from California [Mr. BROWN] and I share districts in southern California, in San Bernardino County. We essentially cut up most of the territory of the county and the population as well.

Mr. Chairman, I would say to the gentleman from Iowa [Mr. SMITH] that I would like to enter into a colloquy with him and the gentleman from California [Mr. BROWN], who has also received a series of complaints, a growing volume of complaints, as I have, from constituents regarding the extended length of time it takes to have their cases resolved by our Social Security office in San Bernardino, which we both share in our districts.

I have received a letter from the chief administrative law judge that begins to outline the problem. There are over 6,000 cases pending in the one county office. That is about four times the number of cases pending just last year. This is not a reflection of the fine work of the Social Security staff, but outlines the enormous challenge that our staff and constituents are facing.

I appreciate your subcommittee recognizing this ongoing problem and appreciate your willingness to add \$194 million to this bill in order to address the situation. However, I am sure these problems are developing all around the Nation, not just in California. I hope there is more we can do.

Mr. Chairman, I am very interested in any comments the gentleman might have. These problems, while they do not just affect our districts, are very important to the gentleman from California [Mr. BROWN] and myself.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. LEWIS of California. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, the gentleman from California [Mr. LEWIS] has correctly stated our joint situation involving our county, the largest county, I might say, in the United States. Our office has received the same type of complaints as the gentleman's have. We think this is an extremely serious problem. We do appreciate the fact that this bill addresses it.

I want to thank the chairman of the subcommittee for the additional resources through the Social Security Administration, and of course, we hope that the subcommittee will be able to do even more in the future.

Mr. PORTER. Mr. Chairman, I would ask how much time remains on each side.

The CHAIRMAN. The gentleman from Illinois [Mr. PORTER] has 5½ minutes remaining, and the gentleman from Iowa [Mr. SMITH] has 4 minutes remaining.

Mr. PORTER. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from Illinois [Mr. EWING], my colleague both in Congress and in the general assembly.

Mr. EWING. Mr. Chairman, I have addressed an issue on this floor on several occasions before dealing with the counterproductive Labor Department regulations which discourage supermarkets from hiring young people.

Mr. Chairman, report language included in this legislation directs the Department of Labor to review the regulation which have been causing the problem, H.O. 12. On two separate occasions I have risen on this floor and talked about H.O. 12, and how its enforcement by the Department is having a detrimental effect on job opportunities for teenagers.

H.O. 12 prohibits teenagers from using paper baler machines. When the

regulation was written in 1954, it made good sense. However, modern paper baler machines are very different, and they are much safer. I know, because I recently inspected one in my own district.

It has been the policy, however, of the Department of Labor to levy large fines against grocery stores under this regulation, even though there was no clear evidence of safety risks to teenagers. This policy has discouraged grocery stores from hiring young people.

□ 1610

After I contacted the Department of Labor, their response to me seemed to show they had little recognition or information about this regulation or the current standards they were enforcing. I have asked them to look into this and the response has been very marginal. We know today that modern baler machines must meet the standards of the American National Standards Institute, which are very rigorous.

I want to thank the gentleman from Iowa [Mr. SMITH] for raising this issue in the report language. He has included language which directs the agency to take a hard look at their enforcement of this outdated regulation. This language can do a lot to put our young people back to work.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from Guam [Mr. UNDERWOOD].

Mr. UNDERWOOD. Mr. Chairman, I rise today in strong support of H.R. 4606. On behalf of the people of Guam, I certainly appreciate some of the items in there that are unique to the territories. I stand in support of this legislation. It not only meets the educational needs of our youth but speaks to the inclusion of all U.S. citizens no matter where they live and recognizes some very unique historical circumstances.

If I could just be allowed to mention a couple of items. One is the attention given to the preservation of indigenous languages and cultures. One which is also near to us is the native Hawaiians which we will be discussing a little bit later.

Mr. Chairman, I rise today in support of H.R. 4606. On behalf of my district, I see this appropriations bill as a positive step in addressing Guam's needs. And from a national perspective, I think this bill strikes an appropriate balance between innovative public spending and sound frugal budget practices.

H.R. 4606 includes a provision to help U.S. territories improve their education systems. The bill includes \$2,937,000 for territorial education improvement, a modest program but one that strikes at an inherent inequality among our Nation's schoolchildren. Test scores show that children in the territories do not have the same opportunities as their state-side counterparts. By efficiently directing these funds to those who need it most, the authorizing and appropriating committees succeeded in putting Federal dollars to work in a productive way.

This bill recognizes the importance of assisting in the preservation of the culture and history of indigenous peoples. This is evident in the inclusion of the Native Hawaiian Education Program which we will be debating later today.

Other national efforts are also acknowledged in H.R. 4606 such as school-to-work and Goals 2000. The bill directs substantial funds to this initiative which assists those students who might otherwise fall between the cracks in our educational system after high school and before employment or further education. This legislation's support for bilingual education programs authorized in the Elementary and Secondary Education Act is also a powerful investment in our youth, both in my district and the nation at large. We must equip our youth with the tools to surpass our expectations. Language skills are an essential tool in that effort.

H.R. 4606 recognizes the educational needs of our youth and attempts to meet these needs with prudence in a time of fiscal restraint and it speaks to the inclusion of all U.S. citizens no matter where they live, while it recognizes some very unique historical circumstances. I urge my colleagues to support this bill and address the needs of America's students.

Mr. Chairman, I would like to engage in a brief colloquy with the gentleman from Iowa regarding some provisions under the Higher Education Special Grants section of the Labor-HHS-Education appropriations, \$397,000 in funding for assistance to Guam institutions of higher education has not been included as it was in last year's appropriation. These funds compensate Guam for the tremendous impact Micronesians place on our higher institutions of education.

Would the gentleman consider supporting the funding for this assistance if it is included in the Senate appropriations?

Mr. SMITH of Iowa. Mr. Chairman, if the gentleman will yield, I would assure the gentleman that if this matter is included, I would definitely consider it. However, we have been told that it is not authorized at this time and we have to work with the committee on that.

Mr. PORTER. Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise to congratulate the gentleman from Iowa [Mr. SMITH] and the gentleman from Illinois [Mr. PORTER] the ranking Republican, for their work in developing the legislation. Theirs has not been an easy job, with many tough choices forced by the existing budget caps. For example, they made reductions in impact aid, they accepted a third of the President's proposed reduction for LIHEAP, they canceled programs such as substance abuse grants, dropout demonstration

grants, follow through, foreign language assistance, bilingual training, and some construction programs. They did that in order to make room for many of the President's priorities. These cuts helped to accommodate modest increases in chapter I, Head Start, health research, and training for the unemployed.

Mr. Chairman, we call this pay as you go budgeting around here. The Clinton administration has come up with a new term. They like to refer to it as cut and invest. Any way we describe it, the committee is to be complimented for setting important priorities within a very tight budget.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. WOOLSEY].

Ms. WOOLSEY. Mr. Chairman, I rise in support of H.R. 4606, because this bill recognizes that investing in education is critical to solving many of the urgent problems facing our Nation.

I know how difficult it was to produce this bill. Chairman SMITH, and the members of the subcommittee, are to be complimented on the openness of their process, and for giving many Members, including me, the opportunity to testify.

In the end, however, there simply is not enough money to meet all of our Nation's needs—particularly for education, which is our most important investment for tomorrow.

In coming years, we must be able to maintain important programs, such as chapter I, and we must get new initiatives, such as coordinated services, off the ground.

As a member of the House Budget Committee, I will be fighting to make sure that sufficient funds are available for education in future years.

Mr. Chairman, Congress can do this by sticking to its resolution to increase Federal spending on education by 1 percent every year until it accounts for 10 percent of the Federal budget.

If we make good on that resolution, future education spending bills will be true investments in our children—an investment that will reap long-term results for our Nation.

Mr. Chairman, let us pass this important bill and get on with the urgent task of providing more where more is urgently needed.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I alluded to this, but I want to say it more specifically because with all of the accolades, I feel very humble, I could not have been here as chairman with a bill that seems to meet with such approval had it not been for the very conscientious and hard work of the gentleman from Illinois [Mr. PORTER] and of each of the members of the subcommittee. This is not any one Member's bill, this is everyone's bill.

Mr. Chairman, reference was made to our late chairman who, of course, cannot be replaced completely. We just do the best that we can. The gentleman has set a model.

At this point in time, we hope that this bill is a bill that would have met with his approval. I think that we have done the best that we can, but we did have a great advantage in that we had the same staff available to us that we had for the last several years and that the former chairman had. That helped us a great deal, even though we started more or less in the middle of the year putting this bill together.

Mr. Chairman, I heartily recommend this bill to the House.

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

Mr. Chairman, I would just like to say that it is a great and distinct pleasure to work with the gentleman from Iowa, the chairman of the committee. I thank him for his very kind words. I look forward to working closely with him for a long time to come. I echo that this is a bill I think Bill Natcher would say was a good one.

Mr. SKELTON. Mr. Chairman, recently, I joined 100 of my colleagues in a letter to Chairman SMITH, urging the Appropriations Subcommittee on Labor, Health and Human Services, and Education to support the Impact Aid Program in the fiscal year 1995 appropriations bill, by accepting the authorizing committee's numbers.

Beyond question the Impact Aid Program is vital to school districts serving military children and students who live in communities impacted by Federal property. Impact aid provides basic resources for essential school services. It is already critically underfunded.

Moreover, under this bill, impact aid will be one of the hardest hit of the Federal education programs. These disproportionate cuts will deny federally impacted schools funds which may be necessary for their survival.

We continue to ask our educators and our school districts to produce the finest students in the world. It is time we gave them the resources to do so.

Mr. OWENS. Mr. Chairman, I rise in reluctant support of H.R. 4606, the Labor-HHS-Education appropriations bill for fiscal year 1995. This bill fails to put money where Congress' mouth is. Members of the House continually espouse their support for education reform, but when put to the test, would rather spend their dollars on wasteful defense projects than educating the Nation's children. That is proven by the fact that while the Labor-HHS-Education appropriations bill's total is \$7.1 billion less than the current level, the Defense appropriations bill's total is \$3.5 billion more than the current amount.

H.R. 4606 shortchanges students at an early age. The bill clearly demonstrates Congress' lack of commitment to investing in our children's education. Chapter I of the Elementary and Secondary Education Act, which provides assistance to the poorest school districts, is given \$302 million less than the administration's request and only \$302 million more than the current year's allocation. With

such meager funding, students residing in poor districts will never be able to receive an education which is on par with that of their counterparts living in wealthier districts.

H.R. 4606 also allocates a paltry amount for the Safe and Drug-Free Schools Programs at a time when our schools have become a more hospitable environment for crime and substance abuse than reading and writing. These national programs have been cut by more than one-half of the current year's funding level.

Additionally, this bill makes it more difficult for disadvantaged students to receive a high-quality college education. By imposing a cap on the number of students eligible to receive Pell grants, the bill makes it no longer possible to boast that in this country, no one who is qualified for admission to college will be turned away because of inadequate resources. If that is not slamming the door on the American dream, then I am not sure what is.

Moreover, the cap represents a misguided attempt to cut education costs. For example, while the overall number of students eligible for the maximum Pell grant award is declining, the number of these students who enroll at United Negro College Fund institutions and historically black colleges and universities is increasing. The cap therefore ignores the educational needs of poor African-Americans and other people of color as well.

Not only is education given short shrift in the bill, but libraries also are underfunded. Federal support for libraries is cut by \$30 million, and zero funding is recommended for public library construction.

Finally, H.R. 4606 is a raw deal for individuals with disabilities. The National Institute on Disability and Rehabilitation Research [NIDRR] within the Department of Education is being funded at a level slightly below last year but \$1.5 million higher than the administration's request. The low request and funding level run counter to the administration's policy to "end welfare as we know it," since NIDRR primarily supports research and training activities designed to maximize the employment of individuals with disabilities. The National Council on Disability [NCD] also is recommended for a cut in funding. This cut is a tremendous blow to the civil rights of individuals with disabilities, as NCD takes an active part in monitoring compliance with the Americans with Disabilities Act.

Overall, the bill is an embarrassment to the administration and the Congress. If we cannot commit ourselves to fully fund education, libraries, and programs for individuals with disabilities, then to what can we commit ourselves? The democratic ideal of self-empowerment is meaningless to underprivileged Americans unless they have access to world-class education and training.

The strategy of no cuts for defense is a blunder immense. Education is the innocent victim of this misguided policy. With great reluctance I vote "yes" for this bill. We must all pray that the administration will find its way in the next session. In 1995 education must become the No. 1 priority.

Ms. SCHENK. Mr. Chairman, recently the House passed H.R. 6, which reauthorizes many elementary and secondary education

programs, including the Impact Aid Program. This program provides funds to school districts which, because of the presence of Federal land or a Federal activity, have a reduced tax base.

Early last month, I joined 101 of my colleagues in sending a letter to NEAL SMITH, the distinguished chairman of the Appropriations Subcommittee on Labor, Health and Human Services and Education, seeking full funding of the Impact Aid Program, in the amount of \$889 million for fiscal year 1995. Current funding is \$798 million. Unfortunately, the subcommittee's bill allows for only \$728 million, a cut of \$70 million, approximately 10 percent from the current level of funding.

Each year, federally impacted school districts receive less and less of the impact aid funds which the Congress has promised. And yet each year they are supposed to take on more and more initiatives, update their facilities so that their students can compete in the global economy, and protect themselves against increasing school violence. Their budgets are squeezed so tightly that many schools are hard pressed to maintain existing programs.

There are approximately 2,500 federally impacted school districts and over 2 million federally connected children. These children must remain our priority.

While I intend to support the fiscal year 1995 Labor-HHS-Education appropriations bill, I urge the House and Senate conferees to restore the funding for this important program.

Ms. SNOWE. Mr. Chairman, I rise today to express my serious concerns about the language in H.R. 4606 concerning the Low-Income Home Energy Assistance Program [LIHEAP]. The bill cuts \$250 million from the \$1.475 billion in fiscal year 1995 funding that we appropriated last year in accordance with LIHEAP's forward funding schedule. It also provides a reduced funding level of \$1.225 billion for the program in fiscal year 1996.

In its report, the committee states that the rescission in LIHEAP funding was prompted by overall funding constraints and by the need to shift funding to the President's investment priorities of education, job training, health care, and biomedical research.

Reading the report the question immediately entered my mind: what could be a higher priority than heat during the bitter cold winters that many northern States experience? Food, clothing, and shelter are the immediate responses. But heat in the winter actually ranks equally with them as a fundamental human necessity. People do not survive without any of these things, including heat in the winter. Having them all is a matter of subsistence not comfort.

I support education, job training, and biomedical research. These programs give our less fortunate citizens the tools they need to achieve their goals, advance themselves economically, and improve the quality of their lives. But it is hard to understand how effective a job training or education program will be when the participant in that program must return after class to a freezing home, or when the participant is afflicted with anxiety because he knows that he cannot pay the heating bills piling up on the table at home.

LIHEAP is a survival program, not a self-improvement program. It is directly linked to the

health of our citizens. A 1992 study by Boston City Hospital found that the number of clinically underweight children visiting the emergency room increased dramatically in the period immediately following the coldest month of winter. After considering and ruling out chronic illness as a primary cause of this phenomenon, researchers estimated that the children's low weights resulted from increased caloric demand due to cold stress, and from a lack of food due to the economic stress caused by high heating costs. Mr. Speaker, these findings are a disgrace. None of our citizens should ever have to choose between food and heat.

The \$1.5 billion originally appropriated for fiscal year 1995 is far from excessive. In fiscal year 1985, the program received \$2.1 billion, but funding steadily declined to \$1.35 billion in fiscal year 1993 in unadjusted dollars. If LIHEAP funding had remained constant since fiscal year 1985 in dollars adjusted for inflation, today's appropriation would have to be about \$2.7 billion—much higher than the \$1.5 billion that we appropriated last year, and higher still than the reduced level of \$1.225 billion contained in H.R. 4606. And even at recent funding levels, LIHEAP covered less than 25 percent of the average recipient's energy bill, and literally millions of people got no assistance despite meeting the eligibility requirements for the program. We should be increasing LIHEAP funding, not cutting it.

Mr. Chairman, I understand as well as anyone in this body that we need to cut spending to reduce the deficit and begin to pay down our enormous debt. But before we begin the process of cutting, we need to set priorities, and LIHEAP ranks at the top of the priority list. I hope that, should the Senate provide more funds for LIHEAP in its bill, the members of the committee will reconsider their current position and accept a higher Senate funding level in conference.

Mr. HYDE. Mr. Chairman, as the chief sponsor of the Hyde amendment, I want to address a serious problem faced by the States in implementing this funding limitation which was first passed by Congress last year.

Mr. Chairman, there is nothing in the language of the modified abortion funding limitation amendment which required the Medicaid Bureau to take upon itself the functions that it did when, on December 28, 1993, an official issued the misguided and burdensome directive to the States on abortion funding. The language on its face merely recites a passive situation as a condition precedent for receipt of funds. It does not preclude, however, the investigation and proper disposition of suspected cases of fraud on the part of hospitals, physicians, Medicaid recipients, etc.

Mr. Chairman, it was never our intention to require States to pay for abortions in cases of rape and incest. The thrust of the Hyde amendment, as our colleagues well know, was to place restrictions on Federal abortion funding, with certain exceptions. We did not intend to override State laws and policies to require States to pay for abortions; but we recognized that if States so chose to pay for abortions in cases of rape, incest, or life endangerment, Federal reimbursement would now be available.

In fact, Mr. Chairman, this was the administration's own interpretation of the impact on

States of repeal of the Hyde amendment. Prior to enactment of the modified Hyde language in 1994, the administration stressed in several statements the rights of States to determine whether or not to pay for abortions—even those abortions for which Federal reimbursement was available.

On March 30, 1993, senior Presidential adviser George Stephanopoulos participated in a White House briefing that dealt fairly extensively with the administration's budget proposal to repeal the Hyde amendment and open the door to full Federal funding of abortion. "As you know," Mr. Stephanopoulos stated, "there are several states now which do have some restrictions on abortion funding, several others that don't. They will continue to maintain that flexibility."

On the same day, White House Press Secretary Dee Dee Myers said this about the President's decision to seek repeal of the Hyde amendment: "No, this would not mandate that States spend their money that way. * * * If the Hyde amendment is repealed, States will then have the flexibility to determine how that money is spent. Some States would then choose to spend it on abortions. Other States will still have restrictions against it."

Two days later, Dee Dee Myers reiterated the President's support for State flexibility. "What the President has done in terms of overturning the Hyde amendment or moving to make that change is that the Federal Government ought not to dictate policies to the States," Ms. Myers said. "Medicaid, for example, is funded by a combination of State and Federal funds," Ms. Myers continued. "The President believes that the States ought to have more discretion over how that money is spent and that the Federal Government ought not to dictate it," she added.

Lorraine Voles, deputy press secretary at the White House, had this to say: "The States will have flexibility about their funding for abortions. Some states will and some States won't."

Finally, respect for State flexibility upon repeal of the Hyde amendment was strongly implied in a letter which Secretary Shalala wrote to the late chairman of the Appropriations Committee, Mr. Natcher, on June 8, 1993. "As indicated in the President's budget, the administration prefers to work out an approach on this sensitive issue [i.e., abortion funding] which is consistent with both State and Federal law."

Thus, several administration officials made similar statements on the implications of repealing the Hyde amendment, a policy change which had been discussed for weeks—if not months—before it was formally announced. All statements affirmed the right of States to determine whether or not to fund abortions when partial Federal reimbursement is available. No statements made during this time indicated that the availability of Federal funds for abortions would require States to pay for these same abortions.

The fiscal year 1994 Hyde amendment was enacted with the knowledge that 37 States had laws or policies restricting abortion funding, and that at least two of these States restricted funding under their State constitution. Based on our own understanding that the

Medicaid Program is essentially a State-run program which receives Federal assistance, and taking into account the administration's prior and repeated statements that States would maintain the flexibility of deciding whether or not to fund abortions, we did not believe that the Department of Health and Human Services would proceed to order the States to pay for abortions whenever Federal funding is available.

Nevertheless, after the Hyde amendment was signed into law, without any notice or opportunity for comment, the Medicaid Bureau issued a directive which completely belied the administration's previous statements. Moreover, it went even further afield by reading into the modified Hyde amendment a mandate on the States to allow abortionists to waive reporting requirements in cases of rape or incest. This requirement—manufactured out of thin air—would effectively gut all State anti-fraud provisions. The administration's hostility to reporting requirements is clearly demonstrated by its attack on the Pennsylvania law which pays for abortions in cases of rape and incest but which has reporting requirements.

Since this administration announced in March 1993 that the President wanted to repeal the Hyde amendment in its entirety, a policy statement that was repeated in 1994 in the fiscal year 1995 budget request and which showed its preference for no restrictions on Federal funding of abortion, it is arguable that this position has strongly influenced its interpretation and use of the modified Hyde amendment.

Mr. Chairman, I do not believe that the law requires the States to pay for abortions when Federal reimbursement is available. Therefore, it should not be necessary, when the law is sufficient, for Congress to enact new legislation to correct every faulty administration decision. Moreover, the Rules of the House of Representatives preclude this Member, or any other Member, from offering an amendment to the Labor/Health and Human Services Appropriations bill to make this clarification. Such an amendment would be subject to a point of order under clause 2 of rule XXI, which prohibits legislating on an appropriations bill.

Therefore, Mr. Chairman, as much as I would like this issue to be resolved quickly and definitely, the House is not able to clarify its intent at this time.

Miss COLLINS of Michigan. Mr. Chairman, as we consider H.R. 4606 today, the bill appropriating funds for fiscal 1995, I am pleased that the House Appropriations Committee restored most of the proposed cuts in the low-income energy program known as LIHEAP. I commend the committee for recognizing the needs of millions of our citizens whose homes have been warmed and weatherized with LIHEAP's help.

Earlier this year, I presented to the committee a letter signed by all members of the Congressional Black Caucus in support of restoring funds for the Low-Income Energy Assistance Program. Since many of us in the caucus have a disproportionate number of low-income people in our districts, this program is particularly important to minority Members of Congress.

As you know, for fiscal year 1995, the President proposed only \$750 million, compared to

the \$1.4 billion we appropriate for fiscal year 1994. Coming after a particularly harsh winter in many parts of the country and several scorching summers, these cuts are difficult to understand. Commendably, the bill before us today restores most of those cuts and provides \$1.2 billion.

Most studies show that the programs is a great help to poor households, many of which contain elderly and handicapped persons. Recipients receive help with their heating and cooling costs, with weatherization and in some cases, as crisis intervention.

In Michigan last winter, more than 372,000 households received some heating help under LIHEAP. Approximately two-thirds of these households were headed by single parents and senior citizens, living on incomes of less than \$8,000. For these families, an annual heating bill in Michigan can be as high as \$1,000. One study shows that 20 percent of families who experience unmet heating assistance needs will become homeless.

Having a warm house is not just a luxury. It is a necessity. Not only does it help us adults function better, it provides a good home environment for our children to study and to learn.

I hope some day we can eradicate poverty and eliminate the need for this program, but until then, I will continue to work so that a warm home is a reality for every American.

Mr. WILLIAMS. Mr. Chairman, as our late colleague Bill Natcher used to remind us, this bill is really the heart and soul of what we do as a Congress. It supports the health and education of our people, and as such it contributes mightily to the strength of our Nation. It's a bill that always deserves our support.

However, I would not be totally forthcoming if I did not share with my colleagues some reservations I have with the way this bill treats student aid funding. No matter how one looks at it, this is not a good student aid budget. The bill before us today cuts student aid funding by \$75 million below last year's funding level. State student incentive grant funding is the lowest it has been since 1976. Work study and supplemental grants are frozen for the second year at their 1993 levels. In nominal dollars the Pell grant maximum is equivalent to its 1990 level. No, this is not a good student aid budget.

I understand and appreciate the dilemma the Appropriations Committee has been faced with in dealing with the impact of last year's budget resolution and very tight 602(b) allocations. Yet in my opinion student aid has been asked to disproportionately share the burden of those decisions. And I think this will have long-term damaging consequences. Because when we short-shrift our future leaders, we're short-shrifting the future of our Nation. I'm afraid we may be doing that with this student aid budget.

This bill includes, for the first time in its history, a cap on the number of students who can receive Pell grants. I know this is being proposed as a one-time-only cap, hopefully a cap that will never go into effect. But we've had experiences with past one-time-only solutions to budget problems. An example of that is the origination fee charged on student loans. That was supposed to be, if not a one-time-only proposition, at least a short-term charge to students. It was implemented in

1981. It's still with us today. So, I'm suspicious of one-time-only propositions.

But even if I did not have this suspicion, the Pell cap is a bad idea, for it fundamentally alters the Pell Grant Program. Under a cap, Pell becomes a race to the application gate. What was once the foundation of our student aid system—a grant that would be available to every eligible student no matter at what point in time they apply to college or for assistance—becomes a rationing system that rewards the best advised and those who can fill out and have processed their student aid forms fastest. Those who can master the mysteries of the student aid application process and who, with good guidance, apply to college early, will survive a cap. However, those students who decide late to apply to college and those who aren't always encouraged that post-secondary education is a viable option for them—in many cases the poor, the working class, single parents, women with dependent children, minority students—these students will be left at the gate. If the word spreads that the guarantee of a Pell grant is no longer there, these students may decide not to pursue college or advanced training. Or conversely, we may have a stampede to get in first in the Pell grant lottery, which could frustrate the hopes of the committee that the cap will never be implemented. Whatever the outcome, capping the number of students who can receive a Pell award is a terrible idea.

Mr. Chairman, in the last Congress we enacted the Higher Education Amendments of 1992. One of the highlights of that legislation was the fact that it brought some certainty, reliability, and stability to our system of Federal student aid. Those 1992 amendments gave students and parents some confidence that they could plan early for college. Today we're taking that ability to plan away from the most disadvantaged of those students and their parents. It's a big mistake. I hope it is not a harbinger of things to come. I urge the committee and the House to correct these policy directions in the next appropriation bill.

Mr. GENE GREEN of Texas. Mr. Chairman, I rise today to express my concern that the funds designated under H.R. 4606 fall far short of the funds needed to achieve our national education strategy. Over the past 18 months, we have undergone the process of reauthorizing the Elementary and Secondary Education Act. During this debate, we have discovered that the Federal Government plays an inadequate role in our Nation's education system, and accordingly, this administration had pledged a substantial increase in funding for education programs.

Sadly, the appropriations process has not yielded the results we had been promised. Our current budget constraints could not allow the full increase of \$700 million in the Chapter 1 Program which will mean that hundreds of thousands of children will continue to be unserved or underserved through this program. Comparing the administration's request for funding in fiscal year 1995 to what was actually appropriated, one will notice a net decrease in funding of 0.6 percent compared to 1994. And, compared with the other agencies in this appropriations bill, education only received 32 percent of the recommended increase requested by the administration while

Health and Human Services received 85 percent and Labor received 49 percent of their recommended increases.

On the positive side however, there are increases in a number of important programs. Bilingual education received an additional \$23 million and Goals 2000, our Nation's new education reform plan, received an additional \$283 million.

These numbers represent our Nation's commitment to the education and training of our future work force. Unless we reevaluate our efforts in this area, we will not be able to produce the kind of workers that are able to compete in an increasingly competitive global market. I urge my colleagues to place more emphasis on these vital programs in the future and to consider the Federal Government's role in education as the ultimate investment we can make for the future of our children.

Mr. YOUNG of Florida. Mr. Chairman, I rise in support of H.R. 4606, the 1995 appropriations bill for the Departments of Health and Human Services and Education. At the outset, I want to compliment our chairman, Mr. SMITH, and our ranking Republican member, Mr. PORTER, for the outstanding work they have done under very difficult circumstances.

This legislation, which in one way or another affects the lives of virtually every American family, provides funding for quality program after quality program. Unfortunately, our allocation this year did not allow us to provide the level of support we would have liked for each and every program. We have had to make some very difficult choices in a year in which the President's budget request for the programs within our jurisdiction was \$3.1 billion greater than our allocation.

One area which I am most concerned about is funding for biomedical research. In the National Institutes of Health, our Nation has one of the world's richest resources of medical and scientific talent. The investment our committee and Congress has made in NIH has been repaid many times over in important medical breakthroughs that have saved lives, eased pain and suffering, and offered people throughout the world renewed hope.

Many mysteries remain, however, and we must continue the search for the clues that will one day lead to a cure for cancer, diabetes, AIDS, and so many other diseases. This bill provides a 3-percent increase in NIH funding for 1995. This, unfortunately, fails to keep pace with the inflation index for biomedical research which is estimated to be 4.1 percent.

My colleague from Illinois, Mr. PORTER, has made efforts I supported at the subcommittee, full committee, and will again try today to increase funding for NIH. We believe that at a time when we are considering health care reform and the need to reduce the cost of health care, NIH should be one of our Nation's priorities for finding ways to treat some of the most debilitating and costly diseases.

Regardless of the final appropriation we agree on for NIH in conference, my experience is that the Director and his Directors of each of the Institutes will continue to provide quality research. It has been my pleasure to develop a special relationship over the years with Dr. Claude Lenfant, Director of the Heart, Lung, and Blood Institute, which has oversight responsibility for the National Marrow Donor Program.

This is a program that the committee continues to give high priority to and which continues to save lives every day throughout our Nation and the world. The chairman, Mr. SMITH, Mr. PORTER, and each of the members of the subcommittee are heroes of the program for their continuing support and interest.

Every time I report to the House on our ongoing work with the National Marrow Donor Program, the news gets better and better. Under the direction of the program's chairman of the board, Admiral Elmo Zumwalt, Jr., one of the program's greatest heroes, the national registry had grown to 1,256,692. During the past year, an average of 21,000 potential donors joined the national registry each month.

An area of particular concern to our committee, and especially to my colleague from Ohio, Mr. STOKES, who has also been one of the program's heroes, is the need for greater growth in the number of minority donors. It is a pleasure to report that principally through the allocation of specially designated funding the past three by this committee and the Appropriations Subcommittee on National Defense, on which I also serve, more than one-third of all the new donors recruited in the past year were from minority groups. Each month, 200 minority focused drives are held throughout our Nation.

The key to the success of the National Marrow Donor Program continues to be people. It is so heartening to see the miraculous growth of the program continue as more and more people learn of the possibility that they could save the life of a person somewhere in the world suffering from leukemia and any 1 of 60 other blood disorders.

The odds of finding a matched bone marrow donor in the general population is 1 in 20,000. With the tremendous growth in the national registry, the growing racial diversity of the donors, and the number of fully typed donors, supported in large part with funding provided by our two subcommittees, more than 56 percent of all new patients searching the registry find at least one completely matched donor. A significant number of other patients find one or more near perfect matches, which with the experience our transplant centers have acquired through the large number of transplant procedures, leads to almost the same rate of success for patients.

In the 6½ years since the national registry became operational, more than 2,500 patients have been given a second chance at life. Every month, 62 transplants are facilitated through the national registry, and not a month goes by where bone marrow doesn't cross international boundaries to save a life here or abroad.

The success of the National Marrow Donor Program is something every Member of Congress can be proud of and I appreciate the continuing support of each of my colleagues for my efforts to see that we pursue our goal to one day find a matched donor for every patient in need of a bone marrow transplant.

The National Marrow Donor Program is one of the many valuable programs funded in this bill. Time does not allow me or any member of our subcommittee to list every single program. There are two others, however, that I want to highlight and thank my colleagues for their continuing support.

The first is the National Youth Sports Program, for which the committee has included \$14 million in fiscal year 1995. This program provides an opportunity for more than 60,000 low-income children, primarily from minority communities, to spend 6 weeks during the summer on a college campus. For most participants, this is the first time they have ever been on a college campus let alone have the opportunity to use the facilities and tap into the talent of their faculty and staffs. We have found that over the past 26 years of the program, this experience has encouraged many, many students to pursue a new found dream of a college education.

The name does not fully tell the story of all the benefits participants derive from the program. In addition to sports skills and training, students also receive physical examinations, hot lunches, math and science instruction, and tough antidrug and antigang messages.

These programs are underway as we speak today on 170 college campuses throughout our Nation and I would encourage my colleagues who are fortunate enough to have programs in their district to take some time during the Fourth of July district work period to go out and visit with the students and faculty and staff to see firsthand how excited they are about this tremendous way they spend their summer.

Finally, Mr. Chairman, I want to call attention to a small but very important program our subcommittee continues to support at my request. This is the Emergency Medical Services Program for Children which provides instruction and training for emergency room personnel into the special needs of children who require treatment in emergency rooms.

The Institute of Medicine reported last year on the unmet need for pediatric emergency medical services throughout our Nation and indicated strong support for the roll this program has played in developing these services and training programs.

Accidents and injuries continue to be the leading cause of death and disability for America's children. They result not only from unsafe environments in which accidents occur, but also from the lack of access in many communities to emergency medical services capable of meeting the unique needs of children. Since 1985, the Emergency Medical Services Program for Children has recognized this great unmet national need and has taken some very important steps to reach out on a State-by-State basis to make the public, hospital administrators, and emergency response personnel more aware of the special needs of children and to provide training and equipment to better treat them and save lives.

In closing, Mr. Chairman, I have only had time to talk about several of the many programs included in this legislation. It is a good bill, although there are areas which demand greater support. However, given our tight fiscal constraints, the Committee has made the difficult choices that are necessary to ensure that our limited resources are allocated to provide the greatest return to the American people.

Mr. COMBEST. Mr. Chairman, I would like to congratulate Chairman SMITH on adding report language to this appropriations bill, regarding Hazardous Occupation Order Number 12, as it relates to cardboard balers.

I have been interested in making common-sense reforms to this 40-year-old regulation to reflect the numerous technological advances that have occurred in the manufacturing of cardboard balers. My suggested changes would not affect safety in any way. It simply would allow workers under the age of 18 to deposit cardboard into a dormant baler, not to operate the machine.

I was first alerted to this situation earlier this year when I was contacted by grocery store owners from my district who told me that they had been cited and fined by the Labor Department for violations involving the placement of cardboard materials into a nonoperating baler by employees under 18 years of age.

My grocers told me that because of these fines, which can be as much as \$10,000 for each violation, they are no longer hiring young people, or they have decided to cut back considerably on the number of teenagers that they employ in their stores.

With 1.3 million teenagers unemployed, it seems counterproductive to have a regulatory policy that discourages certain businesses—such as supermarkets—from hiring young people. Unbelievably, the Department of Labor has no data that shows young people are at risk or have been injured when tossing cardboard into a dormant baler. Just the other week, the administration urged the business community to hire some 300,000 teenagers for the summer, but here is an example of regulations that prompt businesses not to hire young people.

Mr. Chairman many of my colleagues share these same concerns and frustrations with this issue of Hazardous Occupation Order Number 12, and how it is being enforced by the Department of Labor. As a matter of fact, 71 Members of the House joined with me in sending a letter to Secretary of Labor Robert Reich, requesting information in this area. I am inserting our letter to the Labor Department to be made a part of the RECORD.

To conclude, I should mention that it has been 10 weeks since we sent this letter, and that we have not received a response yet.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, April 25, 1994.

HON. ROBERT REICH,
Secretary of Labor, Washington, DC.

DEAR MR. SECRETARY: We are writing to you in an effort to seek common sense improvements in the Hazardous Occupation Order Number 12 (HO 12) as it relates to scrap paper balers.

As you know, HO 12 was adopted in 1954 under authority of the Fair Labor Standards Act. It prohibits 16 and 17 year olds from operating or assisting to operate balers, wire stitchers, guillotine paper cutters or staplers, as well as other pieces of equipment used in the paper industry. Major advances in baler safety technology have taken place in the last 40 years since HO 12 was adopted, and we are perplexed as to why the regulatory framework does not reflect these changes. We believe HO 12, as it applies to balers, is very outdated.

Specifically, we strongly oppose the current enforcement of HO 12 that prohibits a 16 and 17 year old from even placing materials into a baler. It seems unbelievable to fine small businesses thousands of dollars for this simple act, when modern balers cannot be operated during the loading process. At a

time when the nation has more than 1.3 million unemployed teenagers, it seems counterproductive to have regulatory policies that discourage their hiring or significantly hamper usage of their skills.

We request answers and supporting information to the following questions within 14 days.

How many minors have been injured or killed by throwing cardboard boxes into a baler, not operating it?

Where there have been injuries, how old was the baler, did it meet current safety standards? Exactly what injuries were sustained and how did they occur—that is what part of the baling process was the individual doing?

In what industries did these injuries occur? What is the total assessed fines for the last three years for placing material in a baler? Information provided previously was for the entire standard not singly for balers.

We believe that improving this standard would be a positive step towards relieving the cumbersome maze of regulations that currently stifle the nation's small businesses.

Sincerely,

Larry Combest, John Boehner, Ron Klink, Joe Knollenberg, Peter DeFazio, Thomas Ewing, Henry Bonilla, Bill Baker, Robert Michel, James Talent, Sam Johnson, Bill Barrett, Peter Hoekstra, John Doolittle, Mike Kreidler, James Walsh.

Mac Collins, Michael Huffington, Harry Johnston, Dick Armey, Ron Machtley, Richard Baker, Tom DeLay, Donald Manzullo, Dan Miller, Jay Dickey, Ron Wyden, Glenn Poshard, Peter Torkildsen, Spencer Bachus, Don Sundquist, Jim Ramstad, Jim Kolbe, Tillie Fowler, David Mann, Craig Thomas, John Linder, G.V. (Sonny) Montgomery.

William Goodling, Ike Skelton, Ralph Hall, Thomas Bliley, Marge Roukema, Joe Skeen, Harris Fawell, W.J. (Billy) Tauzin, Earl Hutto, Bill Emerson, Lamar Smith, Tom Petri, Steve Gunderson, Cass Ballenger, Alan Mollohan, Norman Sisisky, Joseph McDade, Jan Meyers, James Bilbray, Jon Kyl, Joel Hefley, James Hansen.

Charles Stenholm, James Moran, Bill Zeliff, Jimmy Hayes, Hamilton Fish, Jr., Mike Parker, Charles Canady, Bob Stump, Rob Portman, Bill Brewster, Ed Pastor.

Mr. PORTER. Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1995, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

Mr. HUGHES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, first of all, let me congratulate the distinguished gentleman from Iowa, the chairman of the subcommittee, for doing an excellent job

in his maiden voyage with this particular subcommittee. He and the ranking minority member, the gentleman from Illinois, I think under very difficult circumstances have done an excellent job. It just does not seem right not to have Bill Natcher, our late beloved chairman of this subcommittee, on the floor. Mr. Chairman, I speak for a lot of the Members in this body when I say that Bill Natcher could not have a more worthy successor than the gentleman from Iowa who has done such great work over the years in the Subcommittee on Commerce, Justice, State, and Judiciary, and who I know will labor hard in probably one of the most important subcommittees, the most difficult of the subcommittees, I would say, all the subcommittees are important, but this one spends by far the largest amount of money and has great responsibility.

My colleague, the gentleman from Iowa, is fortunate to have the continuity of the staff, the professional staff, of this subcommittee to work with him. I know that it was difficult for him to stay within the 602(b) allocation and he has brought this particular bill in \$7.1 billion less than last year's fiscal appropriations bill and some \$1.9 billion under the administration request. I congratulate the gentleman on his work.

□ 1620

I would like to engage the chairman of the subcommittee in a colloquy in a matter that does give me some concern, however. It seems to me that in the bill there is an \$8 million cut in the Supportive Services and Centers Program and the Congregate Nutrition Program within the Older Americans Act, and I am also informed that because of this cut, over 1.5 million meals will not be served next year to the older Americans of this country and around 80,000 fewer seniors will receive less services than they presently receive in their homes and in the community.

I think you will agree that if such cuts were to take place that would be unfortunate, because it would hurt thousands and thousands of needy Americans around the country.

I hope that the gentleman from Iowa will take another look at that in conference and attempt to support the Supportive Services and Centers Program, but particularly the Congregate Meals Program closer to the 1994 level. Now, I know we could probably debate whether the cuts will translate into that many fewer meals being served to seniors around the country. That is something that is, I think, somewhat conjectural.

But the Office on the Aging suggests that we are talking about 1.6 million less meals being served to seniors, many of them who do not receive any other nutritious meal during the day than that particular meal.

I wonder if the gentleman will respond?

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HUGHES. I am happy to yield to the gentleman from Iowa.

Mr. SMITH of Iowa. I would hope they are not cut. I would point out that at these meal sites they do get voluntary contributions; that means that where they have been getting a dollar they will have to try to get a dollar and one cent in voluntary contributions. I think they can. I do not think the meals will be cut.

They may have to get a little higher contributions from some of the people who attend.

However, I do want to say that I like working with the gentleman and his committee. There are 14 of these senior citizens aging programs. We tried to allocate that money within that as best we could. There was only a two-thirds of 1 percent cut rather than the 3½ percent from current services that the whole bill had to take. So we did favor these programs, undoubtedly.

We also, within the 14 programs, tried to favor those that helped those people who were shut in, who cannot even go to a meals site. We tried to favor those kinds of programs, too.

On the other hand, within that, even though they are only cut two-thirds of 1 percent rather than 3½ percent from current services, if we can find more money in conference, we would be glad to increase it. Or if there is some shifting within the 14 programs that could be done and the gentleman's committee would recommend that, we would certainly very seriously consider that.

Mr. HUGHES. I thank the gentleman.

You know, one of the things that I am very interested in is older American issues. The Older Americans Act has been probably one of the greatest blessings, something we can be very proud of, and while the gentleman is correct, we can expect more voluntary contributions, the gentleman knows that that is somewhat problematic. Those voluntary contributions do not always take place.

As a result, we could end up with the kind of numbers that the Office on Aging suggests, a million and a half less nutritious meals for senior citizens.

Mr. SMITH of Iowa. To put it in perspective though, that is out of 245 million meals. They do serve a lot of meals. They serve a great purpose all over this country.

Mr. HUGHES. But, you know, to a hungry senior citizen who does not get a nutritious meal, that statistic does not mean anything. And, frankly, I would like to work with the gentleman before he goes to conference and hopefully during conference and try to look at areas even within the Older Americans Act, if we could find some funding to shift to make sure that nutrition

programs, that Congregate Meals Program, is protected.

And I thank the gentleman.

Mr. SMITH of Iowa. I will be glad to do so.

The CHAIRMAN. The clerk will read.

The Clerk read as follows:

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs and for carrying out section 908 of the Social Security Act, \$90,276,000, together with not to exceed \$45,073,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mrs. MINK of Hawaii) having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4606) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON H.R. 4454, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1995

Mr. FAZIO. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4454) making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. YOUNG OF FLORIDA

Mr. YOUNG of Florida. Madam Speaker, I offer a motion.

The Clerk read as follows:

Mr. YOUNG of Florida moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill H.R. 4454 be instructed to insist on the House position on the amendment of the Senate numbered 24.

The SPEAKER pro tempore. The gentleman from Florida [Mr. YOUNG] is recognized for 30 minutes.

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

Madam Speaker, this is a bipartisan motion I offer today agreed to by the chairman of the subcommittee.

Last year, the House approved the GPO Electronic Information Access Enhancement Act, which creates a system to increase computer access to

public information of the Federal Government.

The House report on this bill stated that the legislation did not authorize any increase in appropriations for these activities, and that the program was to be implemented within the current GPO budget.

During consideration of this appropriations bill in May, the House approved bill language requiring the GPO to implement the Access Act with savings from other GPO programs.

The amendment approved by the House stated, the Access Act "shall be carried out through cost savings."

This motion instructs the House conferees to support the House language thereby ensuring that the GPO comply with the intent of Congress to implement this new program with cost savings, and not more American tax dollars.

Mr. FAZIO. Madam Speaker, will the gentleman yield?

Mr. YOUNG of Florida. I am happy to yield to the gentleman from California.

Mr. FAZIO. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, we support the motion and urge its adoption.

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

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Florida [Mr. YOUNG].

The motion to instruct was agreed to.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. FAZIO, MORAN, OBEX, MURTHA, CARR of Michigan, CHAPMAN, SABO, YOUNG of Florida, PACKARD, TAYLOR of North Carolina, and MCDADE.

There was no objection.

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. SMITH of Iowa. Madam Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4606) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

□ 1628

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4606, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the bill had been read through page 2, line 11.

The Clerk will read.

The Clerk read as follows:

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, as amended, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act; title II of the Civil Rights Act of 1991; title XV, part A of Public Law 102-325; title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act; the Women in Apprenticeship and Nontraditional Occupations Act; Goals 2000: Educate America Act; and the School-to-Work Opportunities Act; \$5,524,991,000 plus reimbursements, of which \$5,035,179,000 is available for obligation for the period July 1, 1995 through June 30, 1996; of which \$150,000,000 is available for the period July 1, 1995 through June 30, 1998 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers, including \$51,254,000 for new centers; of which \$184,788,000 shall be available for the period October 1, 1994 through June 30, 1995; and of which \$140,000,000 shall be available for obligation from July 1, 1995 through September 30, 1996, for carrying out activities of the School-to-Work Opportunities Act: *Provided*, That \$63,666,000 shall be for carrying out section 401 of the Job Training Partnership Act, \$84,841,000 shall be for carrying out section 402 of such Act, \$8,880,000 shall be for carrying out section 441 of such Act, \$1,500,000 shall be for the National Commission for Employment Policy, \$5,579,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under such Act, \$3,861,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of such Act in addition to amounts otherwise provided under sections 202, 252 and 262 of the Act, \$1,044,813,000 shall be for carrying out title II, part A of such Act, and \$598,682,000 shall be for carrying out title II, part C of such Act: *Provided further*, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, \$320,190,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, \$90,310,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended,

and of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapters B and D, chapter 2, title II of the Trade Act of 1974, as amended, \$274,400,000 together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND
EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-49I-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 225, 231-235, 243-244, and 250(d)(1), 250(d)(3), title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H), 212(a)(5)(A), (m) (2) and (3), (n)(1), and 218(g) (1), (2), and (3), and 258(c) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); necessary administrative expenses to carry out the Targeted Jobs Tax Credit Program under section 51 of the Internal Revenue Code of 1986, and section 221(a) of the Immigration Act of 1990, \$146,697,000, together with not to exceed \$3,269,013,000 (including not to exceed \$1,653,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980, and including not to exceed \$1,000,000 which may be obligated in contracts with non-State entities for activities such as occupational and test research activities which benefit the Federal-State Employment Service System), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1995, except that funds used for automation acquisitions shall be available for obligation by States through September 30, 1997; and of which \$144,763,000 together with not to exceed \$817,224,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1995, through June 30, 1996, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which \$232,437,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: *Provided*, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 1995 is projected by the Department of Labor to exceed 2.772 million, an additional \$27,800,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: *Provided further*, That funds appropriated in this Act and in Public Law 103-112 which are used to establish a national one-stop career center network may

be obligated in contracts, grants or agreements with non-State entities.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND
AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and section 104(d) of Public Law 102-164, and section 5 of Public Law 103-6, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1996, \$686,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 1995, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

OFFICE OF THE AMERICAN WORKPLACE

SALARIES AND EXPENSES

For necessary expenses for the Office of the American Workplace, \$30,411,000.

PENSION AND WELFARE BENEFITS
ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for Pension and Welfare Benefits Administration, \$66,388,000.

PENSION BENEFIT GUARANTY CORPORATION
PENSION BENEFIT GUARANTY CORPORATION
FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1995, for such Corporation: *Provided*, That not to exceed \$11,493,000 shall be available for administrative expenses of the Corporation: *Provided further*, That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION
SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, \$242,860,000, together with \$1,059,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act: *Provided*, That the Secretary of Labor is authorized to accept, retain, and spend, until expended, in the name of the Department of Labor, all sums of money ordered to be paid to the Secretary of Labor, in accordance with the terms of the Consent Judgment in Civil Action No. 91-0027 of the United States District Court for the District of the Northern Mariana Islands (May 21, 1992): *Provided further*, That the Secretary of Labor is authorized to

establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under Title I of the Migrant and Seasonal Agricultural Worker Protection Act, 29 U.S.C. 1801 et seq.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, \$258,000,000 together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: *Provided*, That such sums as are necessary may be used for a demonstration project under section 8104 of title 5, United States Code, in which the Secretary may reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further*, That balances of reimbursements unobligated on September 30, 1994, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further*, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary of Labor determines to be the cost of administration for employees of such fair share entities through September 30, 1995: *Provided further*, That of those funds transferred to this account from the fair share entities to pay the cost of administration, \$5,299,000 shall be made available to the Secretary of Labor for expenditures relating to capital improvements in support of Federal Employees' Compensation Act administration, and the balance of such funds shall be paid into the Treasury as miscellaneous receipts: *Provided further*, That the Secretary may require that any person filing a notice of injury or a claim for benefits under Subchapter 5, U.S.C., Chapter 81, or under Subchapter 33, U.S.C. 901, et seq. (the Longshore and Harbor Workers' Compensation Act, as amended), provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

BLACK LUNG DISABILITY TRUST FUND
(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, \$994,864,000, of which \$943,005,000 shall be available until September 30, 1996, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7), of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and

of which \$28,216,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and \$23,333,000 for transfer to Departmental Management, Salaries and Expenses, and \$310,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided*, That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to June 15 of the current year: *Provided further*, That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCUPATIONAL SAFETY AND HEALTH
ADMINISTRATION
SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, \$312,500,000, including not to exceed \$70,615,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to \$500,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further*, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION
SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, \$197,519,000, of which \$5,851,000 shall be for the State Grants Program, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster: *Provided*, That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS
SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, \$296,761,000, of which \$5,134,000 shall be for expenses of revising the Consumer Price Index and shall remain available until September 30, 1996, together with not to exceed \$54,102,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT
SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of five sedans, and including up to \$4,392,000 for the President's Committee on Employment of People With Disabilities, \$156,002,000, which includes \$6,500,000 which shall remain available until expended for use by appropriate Departmental agencies for ADP equipment acquisition, systems development and associated support related to Departmental enforcement programs; together with not to exceed \$328,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

ASSISTANT SECRETARY FOR VETERANS
EMPLOYMENT AND TRAINING

Not to exceed \$185,281,000 may be derived from the Employment Security Administra-

tion account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001-10 and 2021-26.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$47,676,000, together with not to exceed \$3,860,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. None of the funds in the Employees' Compensation Fund under 5 U.S.C. 8147 shall hereafter be expended for payment of compensation, benefits, and expenses to any individual convicted of a violation of 18 U.S.C. 1920, or of any felony fraud related to the application for or receipt of benefits under subchapters I or III of chapter 81 of title 5, United States Code.

SEC. 102. None of the funds appropriated under this Act shall be expended by the Secretary of Labor to implement or administer either the final or proposed regulations referred to in section 303 of Public Law 102-27.

(TRANSFER OF FUNDS)

SEC. 103. Not to exceed 1 percent of any appropriation made available for the current fiscal year for the Department of Labor in this Act may be transferred between such appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfers: *Provided*, That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 104 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 104. (a) None of the funds provided under this Act to the Department of Labor shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act to the Department of Labor shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of \$500,000 or 10 percent, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

This title may be cited as the "Department of Labor Appropriations Act, 1995".

□ 1630

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of title I of the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. Are there points of order on title I?

If not, are there amendments to title I?

AMENDMENTS OFFERED BY MR. PORTER

Mr. PORTER. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. PORTER: On page 17, line 9, strike "\$156,002,000" and insert in lieu thereof "\$145,422,000";

On page 29, line 20, strike "\$2,166,148,000" and insert in lieu thereof "\$2,106,148,000";

On page 40, line 3, strike "\$4,408,775,000" and insert in lieu thereof "\$4,402,690,000";

On page 52, line 26, strike "\$359,358,000" and insert in lieu thereof "\$348,134,000";

On page 24, line 15, strike "\$1,919,419,000" and insert in lieu thereof "\$1,938,159,000";

On page 24, line 20, strike "\$1,259,590,000" and insert in lieu thereof "\$1,271,922,000";

On page 24, line 24, strike "\$162,832,000" and insert in lieu thereof "\$164,513,000";

On page 25, line 5, strike "\$726,784,000" and insert in lieu thereof "\$733,942,000";

On page 25, line 10, strike "\$626,801,000" and insert in lieu thereof "\$632,988,000";

On page 25, line 15, strike "\$536,416,000" and insert in lieu thereof "\$541,725,000";

On page 25, line 19, strike "\$877,113,000" and insert in lieu thereof "\$885,731,000";

On page 25, line 24, strike "\$513,409,000" and insert in lieu thereof "\$518,495,000";

On page 26, line 4, strike "\$290,335,000" and insert in lieu thereof "\$293,255,000";

On page 26, line 9, strike "\$266,400,000" and insert in lieu thereof "\$269,087,000";

On page 26, line 13, strike "\$431,198,000" and insert in lieu thereof "\$435,486,000";

On page 26, line 18, strike "\$227,021,000" and insert in lieu thereof "\$229,326,000";

On page 26, line 23, strike "\$166,155,000" and insert in lieu thereof "\$167,867,000";

On page 27, line 4, strike "\$47,971,000" and insert in lieu thereof "\$48,540,000";

On page 27, line 9, strike "\$181,445,000" and insert in lieu thereof "\$183,307,000";

On page 27, line 13, strike "\$290,280,000" and insert in lieu thereof "\$293,200,000";

On page 27, line 17, strike "\$542,050,000" and insert in lieu thereof "\$547,414,000";

On page 29, line 4, strike "\$1,337,606,000" and insert in lieu thereof "\$1,350,696,000";

On page 29, line 12, strike "\$114,370,000" and insert in lieu thereof "\$115,581,000";

And amend the report accordingly.

Mr. PORTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PORTER. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc and that the debate be limited to 30 minutes, to be divided equally between the gentleman from Iowa [Mr. SMITH] and myself.

The CHAIRMAN. Does the request relate to this amendment and all amendments thereto?

Mr. PORTER. Yes, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. PORTER] will be recognized for 15 minutes and the gentleman from Iowa [Mr. SMITH] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, at the beginning I would like to commend a young lady who is a Presidential Management Intern from NIH working on my staff, Susan Hill, who has been with us for 5 months now and has been doing a tremendous job in my office helping with this bill and other legislation.

Mr. Chairman, she reflects the caliber of the people at NIH, and we very much appreciate having her as a member of our staff during this time.

Mr. Chairman, this amendment would add \$105 million to the National Institutes of Health and offset funding in administrative and unauthorized accounts.

Mr. Chairman, I said in my opening remarks on this bill that NIH is a treasure, and it is.

It represents half of all biomedical research conducted in our country, the so-called basic research that undergirds every medical improvement.

This is not research that would otherwise be done by industry. It is a service that can only be supported at the Federal level.

While companies are engaged in applied research and development to bring new drugs and devices into the health care system, NIH provides the basic research that makes these advances possible.

Mr. Chairman, the United States is the world leader in biomedical research and development in large measure due to the foresight of Congress in showing support for a strong NIH.

Let me reiterate that the United States is the world leader in biomedical research and development.

We not only have the most advanced diagnostic devices and procedures, we have the best prevention, early diagnosis and treatment of diseases.

The NIH is vital to all of this. Its contributions have helped extend life expectancy dramatically over the last 40 years.

Beside the obvious health benefits, the NIH supports high-quality, high-skilled jobs. Virtually every researcher in this country, public or private, has been trained or supported in part by NIH.

The NIH supports a positive balance of trade in medical research and advances.

It spawned the biotechnology industry, one of the fastest growing industries in the country and one that also produces a positive balance of trade.

The FDA is poised to approve a new biotech product that can detect cervical cancer through blood tests. Until

today there has been no good diagnostic test for this cancer, causing thousands of deaths every year.

With a new, cheap diagnostic test, thousands of lives will be saved as the disease is diagnosed early in its treatable stage.

It is inconceivable that this test could have been developed without the basic research on structural biology that came out of NIH.

Mr. Chairman, I want to list just a few examples of how NIH saves lives and money.

In 1970 lithium treatment for manic depression was developed by NIH and approved for widespread use. In the 24 years since then the use of this drug has saved over \$145 billion in prevented hospitalizations that were previously required for manic depression.

The NIH supported the development of many vaccines including the polio vaccine, which has saved more in prevention than Congress has invested in NIH in its entire history. One discovery has saved the entire cost of NIH throughout its history.

Finally, the economic costs of hypertension are estimated at \$18.2 billion per year. The Heart, Lung and Blood Institute helped develop blood pressure drugs and public education campaigns which ensure that over 70 percent of Americans with high blood pressure are controlling it today through the use of regular medication.

As these examples demonstrate, Mr. Chairman, biomedical research is key to health care reform and saving money in the long term.

Research ought to be at the top of the health care agenda.

Recent advances in genetic science have created greater opportunity to prevent, cure, and treat disease than ever before.

Yet, despite the past commitment of this subcommittee to NIH, we are not taking advantage of these opportunities.

Less than one in four meritorious NIH grants is funded, and it has become very difficult to recruit and train new researchers.

We are in real danger of losing an entire generation of biomedical researchers.

At a time when we lead the world and opportunities are manifest, we should redouble our commitment to this enterprise.

Unfortunately, the subcommittee mark provides only a 3-percent increase for the Institutes, less than biomedical inflation.

My amendment, while it would still fall short of the President's requested increase, would get each Institute nearly to the inflation level.

While this is far less than we need to do to maintain our leadership position in the world, it would at least ensure that NIH is not losing ground to inflation.

The NIH is an area in which we should be going forward, not backward.

Mr. Chairman, my amendment offsets the funding in four places.

First, it would offset \$60 million dollars in the Substance Abuse Block Grant.

This increase resulted from the President's request for over \$300 million for a Hard Core Drug Treatment initiative.

Neither the hard core initiative nor the underlying block grant are authorized for 1995.

The amendment offsets program administration in the Departments of Labor and Education and the Administration on Children and Families.

The offsets for Labor and Education do not include any built-in increases such as rent or pay increases identified in the budget.

In addition the offsets exclude certain program increases such as employee training and printing for the Student Guide.

The offset for Administration on Children and Families would level fund program direction at the 1994 amount.

Mr. Chairman, these are difficult choices. I understand that the Departments are trying to do more with less, and I understand the need for additional drug treatment funding.

But as I said in my opening remarks, I believe our job on the Committee on Appropriations is to provide funding for our highest priorities, and that means offsetting funding in areas of relatively lower priority.

Nor should the proposal to offset administrative funding in any way reflect on the quality of employees at the Departments, who I feel are very high-caliber people.

Mr. Chairman, I understand that many Members will rise to oppose this amendment on the grounds that it is insensitive to the needs of the programs which would be offset.

I want everyone to understand that I am bringing this amendment to the floor because I believe we are facing a true crisis at NIH.

If we do not act over the next 5 years to create real and stable growth in our biomedical research enterprise, we will: Lose world leadership in this critical industry; lose high paying, high skill jobs; compromise our balance of trade; lose a generation of scientific talent that will take 10 or 20 or 30 years to rebuild, and lose the greatest opportunities in medical science ever available to mankind: opportunities to improve our health and the quality of life, and the opportunities to control health care costs.

Mr. Chairman, I offer this amendment to raise alarms for everyone in this House and to ask for the support of all Members in the years ahead and beyond to ensure that NIH continues to grow and continues to provide the kinds of opportunities for all Americans.

Mr. Chairman, I yield 5 minutes to the fighter for NIH, the gentleman from Michigan [Mr. UPTON].

□ 1640

Mr. UPTON. Mr. Chairman, I thank the gentleman from Illinois [Mr. PORTER], my dear colleague, for yielding this time to me.

Mr. Chairman, I would be very remiss today if I did not join in this debate providing for more research for the National Institutes of Health, the NIH. One of the very highest priorities that I have in the Congress, in fact, is health research, and this appropriation bill provides for health research, and this amendment is a very important step in the right direction.

Why?

Well, Mr. Chairman, unfortunately money for the NIH does not really keep up with inflation, particularly medical inflation, and I think that that is a shame.

This amendment is, in fact, budget neutral. It does not impact the deficit, and yet it will add \$100 million for NIH.

Now why is this important?

Well, a couple of weeks ago I had the opportunity to visit the University of Michigan cancer center in Ann Arbor, and I visited with a physician there by the name of Dr. Michael Clark, and I had the chance to again talk to Mike this afternoon on the phone, and I can tell my colleagues that they are on the brink of some very exciting, very exciting, changes in the way that our life may be led with regard to cancer research in the future.

The day that I was there, Mr. Chairman, they had a marvelous night where, in fact, a virus that they had developed was identified as killing cancer cells, causing cell death in breast cancer cells. This week, probably, they will be in trials with mice, and within a year the virus that they developed, which I saw on the slides killing breast cancer cells, will be in humans before the year is out.

They are looking at the most common childhood cancers, Mr. Chairman. They know that it will likely be very effective in controlling and eliminating colon cancer, as well as gastric cancers. The ultimate goal, of course, will be to cause the cells to kill themselves, not even requiring surgery in the future.

Now why is this amendment important?

Well, as the gentleman from Illinois [Mr. PORTER], my friend, indicated, one out of four research applicants to the NIH are not funded because of lack of money, and, as I sat with Dr. Clark, and looked through his slides and saw those cells that had virtually exploded, he told me an alarming fact. Seventy-five percent of the time that he spends in the lab is for filling out forms seeking funds from the NIH. In other words, Mr. Chairman, only 25 percent of the

time that he is able to spend is doing the actual research, and I think that is a shame. His research, which could prove to be the promise and the hope for all Americans, has so far only cost less than a million dollars, and yet all of his time, almost, is composed of filling out those forms.

Mr. Chairman, this research is very important, and this amendment is very important, because it will bring the NIH to the level of funding that it ought to be to look for real good medical research.

There is another thing that we can do, too. Because of the cuts in the NIH not keeping up with inflation, the number of us in both the House and the Senate, Republicans and Democrats alike, have introduced a bill that will improve and protect the health of all Americans through an increase in the funding available for health research that holds the promise for the prevention, cure and treatment of disease and disability. This bill, H.R. 4260, introduced by the gentleman from Pennsylvania [Mr. COYNE], my good friend, myself, and the gentleman from New Mexico [Mr. RICHARDSON], has a parallel bill in the Senate. It is called Harkin-Hatfield. Already here in the House we have 54 cosponsors of this bill, and it is important because it provides a private means of supporting the NIH in addition to the amounts that are funded through this appropriation bill. Virtually every medical group, whether it be cancer, or diabetes, leukemia, Parkinson's AIDS, Lou Gehrig's ALS, heart association, virtually every disease group in this country supports our bill to provide more money for NIH.

The NIH provides for the hope and promise of all Americans, and I would urge the adoption of this amendment and further work on H.R. 4260.

I do appreciate the work of the chairman of this committee for giving the increase that we did have. I wish that it could be more. I know the gentleman wishes that it really could be more, too. And I think the thoughtful way this amendment was structured, so that it is budget neutral, certainly helps us fiscal conservatives in a priority we all want.

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois [Mr. PORTER], but very reluctantly. This bill is put together very delicately that I do not think we should add other money to the NIH accounts at this time.

I would like to point out that on an average in this bill programs are held to 96.5 percent of current services, but in the National Institutes of Health we did allocate a minimum of 3 percent increase to each one over the dollars that they got last time. The average is \$384 million.

Now in addition to that, Mr. Chairman, some of the institutes were increased more. For example, the Genome Center got a 20-percent increase, and I think everybody agrees it is one of the very important programs right now. There are great opportunities that probably cut clear across the line in helping in all these diseases.

I also want to point out, as my colleagues know, drug abuse is very important, too, and this would cut drug abuse funding by \$60 million. It would cut some other things, and we are reluctant. We just did not have enough money to do all the things we wanted to do.

In addition to that, Mr. Chairman, for the first time, I think the head of the National Institutes of Health was requested to do a little study on how many of the upper half of the applicants were not funded and to try to find out what happened to them. Well, this study showed that of the upper half, only 10 percent were not funded within a couple of years. That is much lower than it has been. We do not know yet how many of those actually continued in research under some other team or went into research under a private company, a pharmaceutical company maybe, or some foundation. There is a high suspicion that the upper half were being funded, if not through NIH, then through some other funding mechanisms, and we need to know that. They have not been asked to research that before, and we are going to find that out, and I think the new head of the institute, Dr. Varmas, wants to find that out.

In addition to that, Mr. Chairman, the reimbursements to university has been from 40 to 83 percent, an enormous reimbursement to university that does not go to the researchers. I know they furnish the facilities, but the difference between 40 percent and 83 percent means that in some universities a much larger share of Federal funding is going to researchers than at other universities. NIH and the administration are working to renegotiate those reimbursement rates. If they can get that down within the year to a range of 37 to 70 percent, that will also free up more money for more of these grants, and that is something that we expect them to work on. I personally think anybody that is over the median ought to be looked at very carefully—see for sure whether or not they are justified because any additional money that is not justified comes out of research. We need to be putting all we can into research.

So all I have to say to the gentlemen who support this amendment, is that I do not disagree with the need. We all support NIH. But we do have a very delicate balance in this bill, and I would hope at this time that in view of that and in view of all of us as wanting to do all that we can, and we will, and

if we can find more money, we would like to put more money into NIH, and I would hope that perhaps at this point we could withdraw the amendment.

□ 1650

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

Mr. Chairman, this is obviously not a Republican or Democratic matter. The NIH is supported broadly and in a bipartisan way by, I think, every single Member of this Congress. NIH was one of the President's initiatives this year. I commend the President for that.

Unfortunately, in last year's budget, the President had originally suggested only a 1 percent increase for NIH. We ended up with a 6 percent increase overall. This year the President suggested 4.7 percent, but, unfortunately, we were forced to work with far lower 602(b) allocations, and, believe me, on a bipartisan basis, within those allocations we did the best we can to fund NIH.

Obviously there is no program, no institution, no agency, no department, that can escape the fact that we have a very tightly constrained budget. NIH is not escaping it either, with an increase that is below inflation.

I know the chairman's commitment to NIH. It is a very, very strong commitment. He feels he has done the very best he can by it. I respect that. I raise the issue to point the way to the future. I believe that unless we can get a larger allocation or raise NIH to a higher priority, we are going to develop very severe problems in keeping the lead in biomedical research through NIH.

I hope, Mr. Chairman, that the Senate can bring in a higher number for NIH and that in conference we can recede to that higher number and do a bit better.

I very much appreciate my colleague from Michigan [Mr. UPTON], coming to the floor and expressing his strong feelings about this subject in support of this amendment.

Mr. Chairman, in light of the fact that the chairman and I both are strong supporters of NIH, feel we are doing the best we can, and are concerned about the future of funding for biomedical research, I would ask unanimous consent that I be allowed to withdraw the amendments, at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there other amendments to title I?

AMENDMENTS EN BLOC OFFERED BY MR. PORTER

Mr. PORTER. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. PORTER:
On page 8, line 4, strike "\$30,411,000" and insert in lieu thereof "\$29,784,000";
On page 8, line 8, strike "\$66,388,000" and insert in lieu thereof "\$63,959,000";
On page 9, line 9, strike "\$242,860,000" and insert in lieu thereof "\$237,791,000";
On page 13, line 6, strike "\$312,500,000" and insert in lieu thereof "\$296,428,000";
On page 15, line 19, strike "\$197,519,000" and insert in lieu thereof "\$194,607,000";
On page 16, line 23, strike "\$296,761,000" and insert in lieu thereof "\$291,101,000";
On page 17, line 1, strike "\$54,102,000" and insert in lieu thereof "\$51,927,000";
On page 17, line 9, strike "\$156,002,000" and insert in lieu thereof "\$143,459,000";
On page 20, line 17, strike "\$3,008,225,000" and insert in lieu thereof "\$3,121,225,000";
On page 40, line 3, strike "\$4,408,775,000" and insert in lieu thereof "\$4,402,690,000";
On page 52, line 26, strike "\$359,358,000" and insert in lieu thereof "\$346,008,000"; and
On page 53, line 4, strike "\$58,325,000" and insert in lieu thereof "\$56,570,000".

Mr. PORTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PORTER. Mr. Chairman, I ask unanimous consent that time for debate on these amendments and all amendments thereto be limited to 60 minutes, to be divided equally between the gentleman from Iowa [Mr. SMITH] and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. PORTER] will be recognized for 30 minutes, and the gentleman from Iowa [Mr. SMITH] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Chairman, this amendment would provide a total increase of \$100 million for community health centers, and it would be offset by reductions in administrative and enforcement accounts.

Mr. Chairman, the amendment is my attempt to begin to enact real health care reform right now. We have waited 2 years for action on this national imperative. Still, congressional committees are struggling with reform strategies. Only two of five congressional committees have cleared health reform bills as of today.

But, Mr. Chairman, through my amendment, we can make progress on this issue now. All of the major health care reform bills seek to broaden access to health care for the uninsured. The minority leader's bill contains a substantial expansion of community health centers as one mechanism to increase access to care. These centers

provide health care in underserved areas for those people unable to afford it. These are people primarily in heavily urban or rural areas that traditionally lack a strong health care infrastructure or sometimes any health care infrastructure at all.

Mr. Chairman, the funding provided by my amendment would support an additional 125 community health centers and serve an additional 848,000 Americans. In other words, it would provide access to health care for the first time to nearly 1 million additional people.

This amendment will not solve the health care problem by itself, but it will make a significant contribution to the solution.

Mr. Chairman, the amendment offsets funding only in administrative accounts and enforcement accounts. It includes reductions in program administration at the Departments of Education, Health and Human Services, and Labor, and it includes a freeze at the 1994 level for enforcement programs at OSHA, the Mine Safety and Health Administration, and the Pension and Welfare Benefits Administration.

In short, the amendment would provide access to health care for almost 1 million Americans by reducing Federal bureaucracy and enforcement.

When I offered this amendment in the committee, some Members complained that it was designed to block real health care reform. Rather, Mr. Chairman, this is one component of real health care reform. Nevertheless, we will clearly need to do more. We need to have insurance reforms to prohibit exclusions based on preexisting conditions. We need to improve portability and guarantee renewability. We need antitrust reforms. We need medical liability reform. We need to abolish Medicaid and empower the poor with real purchasing power in the health care marketplace.

But, Mr. Chairman, this is a good first step. We do not have to wait for the Committees on Ways and Means, Energy and Commerce, and Education and Labor. We can act today to grant access to health care for nearly 1 million more Americans.

I commend this amendment to the House and ask for its support.

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

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would just briefly say at this point I do not have another speaker and will reserve most of my remarks for later. At this moment I want to say I am opposed to this amendment, very strongly opposed to the amendment. At a later time, I will conclude the debate.

Mr. PORTER. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I would hope this does not become a Democrat-Republican amendment. It is not an urban-rural amendment, and it is not a reform-antihealth care reform amendment. There are some things we can do for this calendar year 1995 to reform health care, and this is one of those important changes in dealing with the whole issue of access to health care, in particular in those underserved areas, the inner cities and in the rural areas.

This amendment does two things: It expands the community health centers, which are traditional areas in the urban areas in the East and West Coasts of this country, and it recognizes, unfortunately, the community health centers are not that common a facilitator for health care access in the Midwest, and so it doubles the rural outreach grants which has become our particular vehicle.

This is important because 25 percent of our population lives in rural America, and yet a 1991 study by the Center for Budget and Policy Priorities found that there are 97 physicians for every 100,000 people in a rural area, compared to 225 physicians for every 100,000 people who live in the cities.

Recognizing throughout the health care reform debate that the integration and cooperation and coordination of health care delivery is the key, we have recognized that these two vehicles, within budget allocation, can become a major tool to increase access to health care in 1995.

Let me tell you what the rural outreach grant program is. It was created in 1990. It is funded at \$26 million at the present time. These are grants awarded by Health and Human Services. They require that there be a consortium arrangement of three or more health care providers to bring access to health care to people that otherwise would not have it.

Let me give you a couple of examples in my own congressional district. One of those programs, frankly, the first outreach grant that we had in western Wisconsin, was known as Kids Care. It was through a grant to the Wisconsin Center for Public Representation. What they did in working with a county health agency is they set up a whole service of preventive health care to children not on medical assistance, but from low income families who were uninsured, exactly the targeted population which is the whole basis for health care reform.

□ 1700

Likewise, St. Mary's Hospital in Sparta has a mobile office van, medical office van that travels throughout the rural service delivery area bringing the same kind of preventive health care and diagnostic health care aimed primarily at young children, young mothers in pregnancies to bring access to

these people in these very small, unincorporated rural areas who have neither the money, the transportation, nor the access to health care in their particular communities.

This is not new spending, my colleagues. This is not health care reform beginning in 1998. This is health care reform now. This is access to people regardless of condition and regardless of income, if they are uninsured. I would encourage and plead with my colleagues, rural, urban, conservative, liberal, Republican, Democrat, please vote for this amendment and send the signal that we can do health care reform at least a small step in 1995.

Mr. PORTER. Mr. Chairman, I yield 4 minutes to my distinguished colleague, the gentleman from Florida [Mr. BILIRAKIS].

Mr. BILIRAKIS. Mr. Chairman, I rise in support of the Porter amendment. Community health centers are a crucial component of any health reform legislation; they provide valuable medical services to individuals across the country.

One of the biggest issues in the health reform debate is how to improve access. Individuals who do not have access to routine care many times use the local hospital emergency room for their medical services. While some may go to the emergency room for minor illnesses, the sad truth is that most wait until they are seriously ill.

In my Florida congressional district, this trend is beginning to change because community health centers in the Tampa Bay area are providing health access to all residents. And it is making a difference—more and more people are receiving routine preventive, primary, and acute care services on a regular basis.

In addition, valuable health care dollars are being saved because people are going to the community health centers instead of the hospital emergency rooms.

The Tampa Community Health Center has four locations serving Hillsborough County. These facilities provide comprehensive pediatric and adult health services to residents regardless of their ability to pay. The number of clinic users has steadily increased since 1990. As a result of the Tampa Community Health Center, more people are seeking care on a regular basis at these clinics, in many cases seeking preventive care and less people use the emergency rooms for these purposes.

Another success in our area is the Mothers' and Child Care Clinic of Clearwater. Since this clinic opened in 1991, the local hospital emergency room visits have steadily declined. In 1990, there were 71 emergency room births by mothers with no prenatal care; by 1993, these births were reduced to 24.

Pediatric emergency room visits have also drastically declined. In 1990,

there were 7,400 pediatric emergency room visits at Morton Plant Hospital; in 1993, there were only 6,400.

Community health centers give many a choice—if more community health centers are built, more people will be given access to routine health care. The Porter amendment would provide more individuals with this opportunity.

Passage of the Porter amendment would be a welcome response to our country's problems regarding health care access. Community health centers are successful because individual health care needs are taken into account. Quality care is available to all residents, regardless of whether or not they have health coverage.

I urge my colleagues to support the Porter amendment so more people will have access to valuable health care services.

Mr. Chairman, I include for the RECORD the following statistics:

MOTHERS' AND CHILDREN'S CARE OF CLEARWATER, CLEARWATER, FL

Mothers' and Children's Care of Clearwater (MCCC) began in January 1991 with only obstetric services. In October 1991, Johnny Ruth Clark Center joined with Morton Plant Hospital to include pediatric services.

More people in our area are becoming Medicaid eligible. MCCC fills in these gaps.

Morton Plant emergency room births by mothers with no prenatal care has decreased dramatically.

1990.—71 births.
1991.—51 births (the year MCCC clinic opened).

1992.—35 births.
1993.—24 births.

Morton Plant Hospital pediatric emergency room visits:

1990—7,400 (MCCC was not open).

1991—7,400 (MCCC only provided OB services).

1992—6,500.
1993—6,400.

MCCC sees almost 13,000 pediatric cases annually.

At MCCC, 10,000 pediatric visits cost around \$500,000. Therefore, even if money is not being saved, many more children are being provided with good health care in the clinic for approximately the same amount of money.

GOOD SAMARITAN CLINIC (DR. DORMOIS)
HOLIDAY, FL

Clinic open 3 years—there has been over 11,000 patient visits. It is crisis oriented.—9,300 medical; 1,800 dental.

Number of medical providers participating (all volunteers): 60 doctors; 12 dentists; 70 nurses; 70 social workers, and 50 clerical volunteers.

Only accepts patients who do not qualify for Federal entitlement programs and do not have insurance. Clients are the working poor—people who fall through the cracks.

Approximately 100–130 patients are seen each week. Includes children and adults up to age 65.

Five to 10 patients with dental problems are seen each week.

Agreements exist with medical specialists to provide additional care.

Clinic is advertised by word of mouth, social agencies, etc.

Clinic relies on donations and medical provider volunteers.

TAMPA COMMUNITY HEALTH CENTER, INC.

Established January 22, 1987.

Funding provided under Section 330 and 340 of Public Service Act.

Currently operating 4 locations serving Tampa and Hillsborough County.

Provide comprehensive pediatric and adult ambulatory health care services to residents of the catchment area regardless of their ability to pay.

26,837 individuals served generating 93,608 patient visits.

Center specific inpatient referral reduction: below shows the number of users of patient visits by year by type (outpatient and inpatient), and the reduction in the ratio of outpatient to inpatient.

	Users	Encounters	Out-patient	Inpatient
1990	3,705	14,629	13,912	717
1991	4,393	16,957	16,382	575
1992	5,513	16,701	16,617	84
1993	5,669	18,435	18,425	10

This graphic shows that the Tampa Community Health Centers, Inc. has shown a steady increase in the number of users and patient visits, but the number of inpatient visits compared to the outpatient has steadily declined.

Mr. PORTER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Connecticut [Mrs. JOHNSON], the chair of our Health Reform Task Force and ranking member on the Subcommittee on Health of the Committee on Ways and Means.

Mrs. JOHNSON from Connecticut. Mr. Chairman, I rise in strong support of this amendment. The community health centers have bipartisan support in this Congress and have enjoyed that broad support for many years. This funding to expand that system throughout America is not only directly related to the solution to our health care problems but is long overdue.

There are few things this Congress could do that would more affect people's lives. Of the 125 new clinics that this would provide, all have demonstrated need. All have met all of the funding criteria. All cannot operate for lack of funds.

In fact, there are 150 centers prepared to open that have demonstrated need and that have met all of our criteria. In addition, there are 75 additional applicants who have been able to demonstrate that they would exist in a medically underserved area.

It is high time we put our dollars on the line behind all those words that we have been saying for so many years about the 37 million uninsured. These clinics tend to be located in the very areas where the majority of Americans without health insurance live. They are in the areas where there is a shortage. They are in the areas where often the poorest live. They are in the city neighborhoods. They are in the most isolated rural areas. They are where the people who have the least access to health care live. And furthermore, even if we mandate that all employers provide health insurance, even if we man-

date that everyone in America has health insurance, there will still be problems in accessing the system until we expand our community health center system.

There is a lack of transportation in cities and in rural areas. There is a lack of providers in many areas of the Nation. It is only by expanding this infrastructure of care that we can make access to community health care a reality for the majority of those 37 million who are uninsured.

In my State of Connecticut, these community health centers helped those that went through serious periods of unemployment, because it made access available and affordable, whether one was covered or not covered.

I hope that we will lay aside our differences today and vote for this amendment, because it is the heart and soul of one of the critical pieces of the solution to access for health care. It supports those kinds of institutions that provide holistic care, that create the relationships that mean that prenatal care is accomplished, that create the relationship that assures that well-child care is carried out in a timely fashion.

□ 1710

Community health centers create the relationships through which substance abuse, family abuse and violence can be addressed. They are comprehensive, they are holistic, they are family oriented, and they are located where the people who need them can reach the health services that are so critical to the lives of our children and the strength of our families.

Mr. Chairman, I urge support of this amendment.

Mr. PORTER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. MICHEL], the Republican leader.

Mr. MICHEL. Mr. Chairman, I thank the gentleman from Illinois for yielding time to me.

The Porter amendment reflects our Republican view that the best health care reform is that which makes health care available to those who need it most at the earliest possible date.

There is sometimes a tendency to believe that those without insurance are not getting health care, but that is not accurate.

Most people receive health care when they really need it and one of the key programs that provides such care, regardless of insurance status, is the Community Health Center Program.

Such centers provide ready access to health care in one's own neighborhood or community.

So, regardless of what kind of insurance reforms we eventually undertake, there is a need for an expanded Community Health Center Program.

It will provide care through the transitional period of expanded insurance

coverage and provide access to care that is essential regardless of insurance status.

Our health care reform bill, the Affordable Health Care Now Act, provides for nearly doubling the Community Health Center Program over a 5-year period, at the rate of \$100 million a year.

The \$100-million increase over last year called for in the Porter amendment thus represents the initial down payment on this 5-year effort to extend health care to those in underserved areas.

Underserved areas, of course, exist in both urban and rural regions of our country. Since community health centers are primarily located in urban areas, the need for increased access to health care in rural areas is provided for by the doubling of funding in the Porter amendment for the Rural Outreach Grants Program.

I believe there is widespread support for the Community Health Center and Rural Outreach Grant Programs, but there seems to be a view on the part of some in this body that nothing should be done until the grandiose health reform plan is approved.

In fact, the President has even proposed reductions in these programs.

That is the wrong way to look at it.

The only effective way to achieve workable health care reform in all its aspects is through a step-by-step approach, doing as much as we can at each stage to bring improvements to the American people at the earliest possible time.

This is the time, and stage, to begin expanding the Community Health Center Program and the Rural Outreach Grant Program.

Expansion of these programs must be done through the appropriations process. So why not now? Let us adopt the Porter amendment.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we all support community health centers very, very strongly. If we did not support community health centers, we would not have put an additional \$19 million into this bill, which is enough so they will open some more community health centers.

However, Mr. Chairman, this is a part of health reform, and when we have a health reform bill, it will find financing for this kind of an increase that is proposed here without taking it out of education and other programs.

When we have a health bill, for example, a lot of people will be insured who are not insured today, who can go to these health centers and pay for this kind of a service, so they will have a lot more revenue. These health centers do get more money than they do out of the Federal Government from insurance and from the contributions that they are able to get from the people

that go there. What this amendment will do, it will take \$15 million, a little over \$15 million, from the Department of Education that they need to reduce fraud and abuse in student aid.

We are going to have amendments here later, Mr. Chairman, an amendment to strike that concentrates on some of the fraud and abuse that is in student aid. We hardly know how to get at it. They need this money. We do not want to take money they need.

We did not give extra money to any of these departments for salaries and expenses unless they had a good reason. In fact, the general trend was to cut them. We do not want to take money away from the money that the Department of Education needs for their effort to reduce fraud and abuse in student aid.

Also, Mr. Chairman, they need the money to implement Goals 2000. That is a new program. We have the school-to-work program, and we have the direct loans. Those need to be implemented. This would take money from that.

Mr. Chairman, in the Department of Health and Human Services they would lose over \$6 million that they need for quality improvements and monitoring in Head Start. Virtually everybody is for Head Start now. I remember when it was not that way, but it is now.

They need the money for these improvements in Head Start. We are all talking about how we can improve Head Start, give deprived children 3 and 4 years old an equal opportunity to get started in the first grade.

Mr. Chairman, the Department of Labor programs would be cut by \$47 million, and that includes money for improvements in the consumer price index in BLS. I point out that this is very important to industry. This is important to our economy. It is done every 10 years. They need this money. We are at that point in the cycle when they need to do it.

Mr. Chairman, the Porter amendment will increase the deficit by \$44 million. That is the budget authority amount. It will not do that in outlays, but it does in budget authority. The bill already, as I said before, has \$19 million over what it had before in community health centers.

What I am saying, Mr. Chairman, in summary, is that it is not the gentleman from Illinois, but there is, it seems to me here, whether we like to admit it or not, there is a tendency to want to say, "We do not need a health reform bill because we can take care of these community health centers without a health reform bill." However, to take care of the community health centers without a health reform bill, we would be taking money from programs that need it very badly.

What we need to do, I think, Mr. Chairman, is wait for the health reform bill. It will finance at least this number of health care centers.

Mrs. SCHROEDER. Will the gentleman yield?

Mr. SMITH of Iowa. I am happy to yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I am so pleased the gentleman is explaining this, because when I walked on the floor I was terribly confused. As the gentleman knows, I grew up in Iowa, and he was the first person I ever voted for for Congress. I know the gentleman has already been out there supporting this, so it sounded like a role reversal, with the compassion coming from the other side, and I could not quite figure it out.

What the gentleman is saying is, they are taking money out of education, Goals 2000, Head Start, all these other things that we have done, and some of it they were just adding to the deficit. Is that how we are getting there?

Mr. SMITH of Iowa. Not only that, Mr. Chairman, but getting at fraud and abuse in student aid, that is a big item. We do not want to take money out of that.

Mr. Chairman, the Members should just wait here a few weeks. We are going to have a health care bill, and in the health care bill we will take care of these community centers. It will certainly be a very high priority. Taking money out of other programs today in this bill is not an answer for having a health care bill.

Mr. Chairman, I urge Members to vote "no" on this amendment.

Mrs. SCHROEDER. I thank the gentleman for clearing that up.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I reluctantly rise in opposition to the Porter amendment, reluctant in that of course we all respect and regard the excellent work the community health centers do, and the rural health outreach. However, as with everything in our bill, we would like to increase all of them, all of the programs. They are all excellent.

□ 1720

As someone is the press described it in dealing with the competing demands in this legislation, it is lamb eat lamb, because everything in here is so good.

As I said, we would love to give more money to community health centers. It is not the price, it is the money. There just is not any more. Unfortunately in order to give more money to community health centers, we would have to make cuts as our chairman mentioned earlier in some very important initiatives that also help people. I believe that cutting the budget for administration for children and families, their program administration, would be a serious cut. The Education Department,

their administration, we should not cut it. The list goes on and on. I will not repeat it because our chairman has already laid out what the offsets would be.

Mr. Chairman, while the Porter amendment is very attractive and while the community health centers are excellent and do a very good job, I look forward to continuing work with the gentleman from Illinois, [Mr. PORTER] on health care reform where we can appropriately address the access and coverage of affordable health care to all Americans, community health centers being one way that we can do that.

As far as this legislation is concerned, we have had a very difficult time meeting the challenge that the initiatives propose, making the difficult choices, subjecting all of the proposals to very harsh scrutiny so that we know we are wringing it out and getting our money's worth for the American taxpayer.

Mr. Chairman, as I say, I reluctantly oppose the amendment of the gentleman from Illinois, not because the health centers are not worthy recipients of more funds, but because so many initiatives in this legislation deserve more funds.

As I said earlier to the gentleman from Illinois, it is not the price, it is money, and the offsets are too expensive for us to approve this. I urge my colleagues to vote no on the Porter amendment.

Mr. PORTER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. Mr. Chairman, I thank the gentleman from Illinois for yielding me the time.

Mr. Chairman, it is amazing to see people talk against the development and increasing community health centers. I have been around this country, had the privilege of doing that for the last couple of years now, especially this last year, talking about problems in health care.

When we get into big urban areas and when we get out into the far rural reaches, the place that best serves underserved communities, underserved groups of people, are community health care centers. I visited a community health care center in southern California—I believe it was in the district of the gentleman from California [Mr. BEILENSEN]—did a wonderful job of outreaching to people, taking care of people's needs. In that health care center, there were little old ladies and men that were getting eye care, eye glasses where they would not go before; expectant mothers were getting prenatal care, on and on, the whole realm of health care needs that people were getting at community health care centers.

I visited a rural health care center where nurse practitioners, because

they could not afford doctors at that point, were taking medical histories from incoming patients, then directing them on to further health care where people did not have the opportunity to get health care before.

Mr. Chairman, we hear the argument that, oh, this is too expensive, we are going to take money out of some type of enforcement program for scholarships or we are going to take money out of here. We are talking about spending hundreds of billions of dollars in health care reform, and we need to do health care reform, but if we ignore, if we blind ourselves to simple solutions to big problems, then we are doing wrong.

I commend the gentleman from Illinois for bringing forth the idea that we ought to expand our community health care centers, our rural intake centers where people are getting real health care and a real solution to a very, very real problem.

We talk about lambs eating lambs. If we do not take care of America's health care, the poor's health care, underserved health care, rural health care—and that is what the gentleman from Illinois [Mr. PORTER], is trying to do in this amendment—we are blinding ourselves to a very, very real problem in this country. I do not understand the logic of people that are trying to do that.

Mr. Chairman, I commend the gentleman from Illinois in putting this program in. I ask this body to support it.

Mr. SMITH of Iowa. Mr. Chairman, I yield 4 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, how times have changed. I can remember when Republican members of our subcommittee used to oppose amendments that I offered trying to expand funding for community health centers. Now, however, the worm seems to have turned. I think we ought to be frank in admitting what this amendment is all about.

What we have here is a political figleaf. It is being offered by people who do not have any intention whatsoever of voting for comprehensive health care reform, and yet they want to be on record somewhere, somehow, on the cheap, supporting an initiative which appears to provide greater access for people to basic health care. Of course it is okay if the taxpayers pay for it, they just do not want employers to pay for it. That is, I think, an interesting aspect of the amendment before us today.

Mr. Chairman, I think it is a sop to the principle of health care access which will then be used to justify a vote against real health reform when it comes down the pike in a few weeks.

I would also point out that it is ironic to discover where the funding would supposedly come from to pay for this. It would come by taking \$16 million

out of the Occupational Safety and Health Administration. I used to work with asbestos before I came to Congress. I did not know as a worker that asbestos was a carcinogen, that 40 percent of British shipyard workers who had worked with it in World War II died from exposure to it. I think workers who are exposed to dangerous chemicals or dangerous health practices in the workplace have a right to know it and have a right to know that their Government will protect them.

The Mine Safety and Health Administration would be cut by \$3 million. Would anybody in this room like to leave their job and go work in a mine? Do Members know any profession that is more dangerous?

I would suggest this amendment says that we ought to pull the plug on funding for some of the most vulnerable people in this country in order to support a political figleaf that is aimed at providing some help for other people in this country who are equally vulnerable. I do not think that is the way to do business. I think the way that we provide health care for people who desperately need services of these community health service organizations is to provide expanded health care for all, to provide guaranteed private health insurance coverage for all, and then add the support structure and support services to go with it.

Mr. Chairman, there is a very good reason why the association that normally lobbies for community health centers has not come out in support of this amendment. My office talked to them. They said they do not have any intention of supporting this amendment because they recognize what it is, a political figleaf, and they have no intention of being used as a pawn in the health care debate. That is what community health centers are being used as today through this amendment.

I urge Members to see through this sham. I urge Members to vote against it.

Mr. PORTER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER], the chief deputy whip.

Mr. WALKER. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I am disappointed by the mean-spirited nature of the remarks that we just heard. It seems to me that the motivations of the gentleman from Illinois ought not be called into question on this, that he has indeed been an advocate for community health care centers as have many of the people that spoke on our side.

It seems to me that what we are hearing is a redefinition of the priorities by the Democrats at the moment. What they have told us in just the last few minutes is that community health care centers and health care in general

is not as high a priority as bureaucracy in a number of programs that are included in this program.

What the gentleman from Illinois is doing is cutting money out of bureaucracies, not out of programs, out of bureaucracies, out of administrative expenses in order to find some money to do community health care centers. Why is it important to do that? Because whether or not we get to a health care bill, and the Democrats have so screwed up the health care debate at this point that they are not even sure they can get to a bill, but here is something that we can do right now, and here is something where we can actually in a global sense save costs in the system, because it is hospital emergency rooms that are carrying far too much of the primary care coverage in this country at the present time and that is the single most expensive place to access health care. Yet with the expansion of community health care centers, we can in fact reduce some of those overall costs in health care and do it in a responsible way.

□ 1730

The Democrats today are coming to the floor and telling people they ought to reject that as an argument. Beyond that, there are a number of specialized people, specialized kinds of constituencies that community health care centers serve.

I happen to have a large migrant farm population in one part of my district. They are served by community health care centers. It provides access they would not otherwise have to health care and thereby lowers the overall cost to the system.

What the gentleman from Illinois is doing is extremely responsible. He is doing it not at the expense of other people. He is doing it at the expense of bureaucracy.

To suggest, for example, that somehow Goals 2000 has risen to a level that it is more important than the health care of this country, it seems to me, is a ludicrous argument. Here is a chance to decide what your real priorities are. If your real priorities are to do something significant about helping to access primary health for people in this country, you will vote for the Porter amendment. If what you are doing is just playing politics with the subject, suggesting the only way to deal with the health care issue is in the big global bill that is coming down the pike, maybe, I would suggest that that is exactly the wrong approach.

Mr. PORTER. Mr. Chairman, I yield 2 minutes to the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I would just like to sort of step away from the politics of this for a minute that have been dis-

cussed here and discuss what I have seen on a firsthand basis with respect to the delivery of health care. That is what this is all about.

We can talk about all the health care plans we want across the United States of America, but the bottom line is we need to have medical personnel who will be able to deliver health care to the individuals who need it. It has shifted a tremendous amount in the United States of America even in the last 5 years, but particularly perhaps in the last 3 or 4 years. As HMO's have sprung up, as alternate forms of health care delivery other than going to a doctor's office have sprung up, we are seeing more and more people who are very comfortable with the concept of going to a community health clinic or to a rural health clinic or whatever it may be in order to receive their health care.

In my State of Delaware where I was Governor for a few years, I saw this opportunity grow, and I saw individuals who were not able to otherwise get health care be able to get it because of the expansion of these units and because the doctors and other individuals took a great deal of interest in these delivery systems. It took people out of the emergency rooms. It gave them health care they did not have before. It made a fundamental difference.

Today we are in a situation in which we are debating health care in the Congress of the United States of America. Hopefully it will come to this floor, and when it comes to this floor, I think you are going to find in practically any piece of legislation which we are going to have before us the concept of having community health clinics and rural health clinics for the delivery of the health care in addition to whatever else is in there.

It is for that reason I think we should be supportive today of this. I do not think it is a matter of politics. I think it is a matter of health care for the people of the United States of America.

I would encourage all of us to support this. I believe that the offsets that we have are basically increases in administration in very good programs, but the bottom line is health care is important.

We do not know if we are going to pass a health care bill or not. If there is one single thing we could do other than pass a universal health care program, whatever it would have in it, it would be to have the delivery system for those who do not have the opportunity to get health care expanded. I believe this would do it.

I support this amendment.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY. Mr. Chairman, I would like to reluctantly speak against this amendment.

Mr. Chairman, it would be very nice if we could vote for additional money

for community health centers, vote for additional money for child care, vote for additional money for DARE programs, all kinds of substance abuse programs. I would like to see a lot more money in prevention.

But as my colleague on our committee and the rest of my colleagues know too well that we had to make some really tough choices, and under the leadership of our distinguished Chair, the gentleman from Iowa [Mr. SMITH], we made those choices.

Now, no one has been a greater advocate of community health centers. They are working tremendously well in our communities. There are people who are reaching out, reaching out to those who really need those services, and in fact, in this bill we did increase the funds for community health centers, and in fact, we also put a down payment on health care reform by increasing the whole preventive package by \$146 million. The community health center increase of \$13 million was just part of it. So it is not as if we are waiting for health care reform. We have done some very important things in this bill with our prevention package, and an increased investment in community health centers was part of it.

So I am proud to have worked with my colleagues from Illinois on an increase for the community health centers. I wish we could work together and do more. Let us hope we can continue to do more next year.

But as we know too well, we had a tough job, and in order to invest, we had to cut, and we were still able to expand the vital services that we can be proud to take back to our individual districts.

So I urge my colleagues to vote against the amendment, not because it is not a good idea, but we have had to make some tough choices, and we have done very well under the leadership of our Chair.

Mr. PORTER. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I just want to make sure everyone understands fully and clearly that this has been a carefully and correctly thought out amendment, and contrary to what was said earlier, we do not in any way cut those basic education funds. Head Start, which has doubled over 5 years, has a \$210 million increase program, not touched by this amendment; Goals 200, a \$283 million increase, not touched by this amendment; chapter I, \$334 million increase, not touched by this amendment; apprenticeships, \$179 million increase, not touched by this amendment; OSHA, the State grants, not cut at all; AMSHA, the State grants, not cut at all.

Give us credit when we put together a carefully crafted, well thought out amendment that establishes a better set of priorities.

This ought not be a partisan issue. Republicans and Democrats, urban and rural people alike, ought to have the courage to stand up and say there is a better idea on the floor, and I am going to have the courage to vote for it.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I would simply repeat, for OSHA Safety and Health Administration, \$16 million cut; for Pension and Welfare Benefit Administration, the organization that is supposed to protect the integrity of America's private pension systems, \$2.4 million cut; Mine Safety and Health Administration, \$2.9 million cut.

Now, those programs cannot be run without administrators. Those programs cannot be administered without administration. You cannot have people in the field unless there is somebody to direct them.

The fact is the amendment makes those cuts. It is very clear. The Education Department has already been cut in terms of personnel by 20 percent in terms of people since 1980. This will cut \$13 million additional.

Mr. GUNDERSON. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I am happy to yield to the gentleman from Wisconsin.

Mr. GUNDERSON. Mr. Chairman, were not the administrative numbers you talked about in OSHA, Pension reform, AMSHA, et cetera, were not those increases over 1994?

Mr. OBEY. Reclaiming my time, whether they were or not, you are cutting the committee recommendations. As you well know, under previous administrations, those agencies have been squeezed for years.

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

Mr. Chairman, I would say to the chairman of my committee that I am, in fact, for health care reform, as I said in my opening remarks.

This is only one component of health care reform. I might not be for the same health care reform my chairman is, but I certainly am for it.

We consider community health centers to be a very important component of that, and we are not cutting, as the gentlewoman from Colorado seemed to suggest; we are not cutting Goals 2000 or Head Start or any other program.

This is a simple judgment that Members have to make, and the judgment is this: Do you want to spend \$87 million more on creating 125 new community health centers that will serve 848,000 Americans who are not served today?

□ 1740

Or do you want to spend that money on increases—we are not cutting—on increases in administrative costs in the three departments and in the enforcement of OSHA, MSHA, and PWBA? I believe that people on our side of the

aisle want to spend that money on community health centers and providing direct services to people who do not have them today. I think that is an honest choice. I think it is a real choice. It is not a fig leaf. The community health centers are very much a part of the plan that we have for health care reform. We consider it a higher priority. We would like to spend more money on that. We think the choice is a real and honest one and ought to be made in favor of doing so.

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

Mr. SMITH of Iowa. Mr. Chairman, I yield myself the balance of my time. I ask my colleagues, please vote against this amendment. We are all for community health centers. I think we will end up this year with about the same number that they are talking about without cutting these important programs that are being cut.

The way we are going to do it is, whenever we increase the number of people who have health insurance, the health insurance benefits will pay for health centers. When they go to the health center, they will pay under their health insurance. At this point we do not know for sure what is going to be in that health bill, but we have got to depend on it increasing the amount of benefits available to help pay for the health centers. We do not want at this point to cut the important things like reducing the fraud and abuse, student aid, improvements in Head Start program, improvements in the consumer price index, so very important to business in this country. We do not want to do that at this time.

We probably will not be out of conference until sometime in September on this bill, and by that time we should have the health care reform matter settled. At this point we have the bill balanced, we have increases only in those instances where they are needed, and I think they are needed. We should not take the money they are going to take out today in order to finance these community health centers.

Mr. Chairman, I urge, please vote "no" on this amendment.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Illinois [Mr. PORTER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PORTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 224, noes 205, not voting 10, as follows:

[Roll No. 294]

AYES—224

Allard	Archer	Baker (CA)
Andrews (ME)	Armey	Baker (LA)
Andrews (TX)	Bachus (AL)	Ballenger

Barrett (NE)	Hastert	Paxon
Bartlett	Hayes	Payne (VA)
Barton	Hefley	Penny
Bateman	Herger	Peterson (MN)
Bentley	Hoagland	Petri
Bereuter	Hobson	Pickett
Billakis	Hoekstra	Pickle
Bliley	Hoke	Pomeroy
Blute	Horn	Porter
Boehler	Houghton	Portman
Boehner	Huffington	Quillen
Bonilla	Hunter	Quinn
Brewster	Hutchinson	Ramstad
Bunning	Hutto	Ravenel
Burton	Hyde	Regula
Buyer	Inglis	Roberts
Calvert	Inhofe	Rogers
Camp	Istook	Rohrabacher
Canady	Johnson (CT)	Ros-Lehtinen
Castle	Johnson (GA)	Roth
Chapman	Johnson, Sam	Roukema
Clinger	Kasich	Rowland
Coble	Kim	Royce
Collins (GA)	King	Santorum
Combest	Kingston	Sarpalius
Condit	Klug	Saxton
Cooper	Knollenberg	Schaefer
Cox	Kolbe	Schiff
Crane	Kreidler	Sensenbrenner
Crapo	Kyl	Shaw
Cunningham	Lambert	Shays
de la Garza	Lancaster	Shuster
Deal	Laughlin	Siskiy
DeLay	Lazio	Skelton
Derrick	Leach	Smith (MI)
Dickey	Levy	Smith (NJ)
Dicks	Lewis (GA)	Smith (OR)
Dooley	Lewis (FL)	Smith (TX)
Doohittle	Lewis (KY)	Snowe
Dornan	Lightfoot	Solomon
Dreier	Linder	Spence
Duncan	Livingston	Spratt
Dunn	Lloyd	Stearns
Edwards (TX)	Lucas	Stenholm
Ehlers	Machtley	Stump
Emerson	Manzullo	Stupak
Everett	McCandless	Sundquist
Ewing	McCollum	Swett
Fawell	McCrery	Talent
Fish	McCurdy	Tanner
Fowler	McDade	Tauzin
Franks (CT)	McHugh	Taylor (MS)
Franks (NJ)	McInnis	Taylor (NC)
Galleghy	McKeon	Tejeda
Gallo	McMillan	Thomas (CA)
Gekas	Meehan	Thomas (WY)
Geren	Meyers	Torkildsen
Gillchrest	Mica	Upton
Gingrich	Michel	Valentine
Goodlatte	Miller (FL)	Volkmer
Goodling	Molinari	Vucanovich
Gordon	Montgomery	Walker
Goss	Moorhead	Walsh
Grams	Morella	Weldon
Grandy	Myers	Williams
Greenwood	Neal (NC)	Wolf
Gunderson	Nussle	Young (AK)
Hall (TX)	Ortiz	Young (FL)
Hamilton	Orton	Zeliff
Hancock	Oxley	Zimmer
Hansen	Packard	
	Parker	

NOES—205

Abercrombie	Browder	Danner
Ackerman	Brown (CA)	Darden
Andrews (NJ)	Brown (FL)	de Lugo (VI)
Applegate	Brown (OH)	DeFazio
Bacchus (FL)	Bryant	DeLauro
Baessler	Byrne	Dellums
Barca	Cantwell	Deutsch
Barcia	Cardin	Diaz-Balart
Barlow	Carr	Dingell
Barrett (WI)	Clay	Dixon
Becerra	Clayton	Durbin
Bellenson	Clement	Edwards (CA)
Berman	Clyburn	Engel
Bevill	Coleman	English
Bilbray	Collins (IL)	Eshoo
Bishop	Collins (MI)	Evans
Blackwell	Conyers	Farr
Bonior	Coppersmith	Fazio
Borski	Costello	Fields (LA)
Boucher	Coyne	Fliner
Brooks	Cramer	Fingerhut

Foglietta	Maloney	Rostenkowski
Ford (MI)	Mann	Roybal-Allard
Ford (TN)	Manton	Rush
Frank (MA)	Margolies-	Sabo
Frost	Mezvinsky	Sanders
Furse	Markey	Sandgameister
Gejdenson	Martinez	Sawyer
Gephardt	Matsui	Schenk
Gibbons	Mazzoli	Schroeder
Gilman	McCloskey	Schumer
Glickman	McDermott	Scott
Gonzalez	McHale	Serrano
Green	McKinney	Sharp
Gutierrez	McNulty	Shepherd
Hall (OH)	Meek	Skaggs
Hamburg	Menendez	Slattery
Harman	Mfume	Slaughter
Hastings	Miller (CA)	Smith (IA)
Hefner	Mineta	Stark
Hinchey	Minge	Stokes
Hochbrueckner	Mink	Strickland
Holden	Moakley	Studds
Hoyer	Mollohan	Swift
Hughes	Moran	Synar
Inlee	Murphy	Thompson
Jacobs	Murtha	Thornton
Jefferson	Nadler	Thurman
Johnson (SD)	Neal (MA)	Torres
Johnson, E. B.	Norton (DC)	Torrice
Johnson	Oberstar	Towns
Kanjorski	Obey	Trafficant
Kaptur	Owens	Tucker
Kennedy	Pallone	Underwood (GU)
Kennelly	Pastor	Unsoeld
Kildee	Payne (NJ)	Velazquez
Kiecicka	Pelosi	Vento
Klein	Peterson (FL)	Visclosky
Klink	Poshard	Waters
Kopetski	Price (NC)	Watt
LaFalce	Rahall	Waxman
Lantos	Rangel	Wheat
LaRocco	Reed	Whitten
Lehman	Reynolds	Wilson
Levin	Richardson	Wise
Lewis (GA)	Roemer	Woolsey
Lipinski	Romero-Barcelo	Wyden
Long	(PR)	Wynn
Lowey	Rose	Yates

NOT VOTING—10

Callahan	Flake	Pryce (OH)
Faleomavaega	Hilliard	Ridge
(AS)	Olver	Washington
Fields (TX)	Pombo	

□ 1804

The Clerk announced the following pair:

On this vote:

Ms. Pryce of Ohio for, with Mr. Hilliard against.

Ms. WOOLSEY, and Messrs. GILMAN, PALLONE, and BROOKS changed their vote from "aye" to "no."

Messrs. DORNAN, GORDON, and PICKLE changed their vote from "no" to "aye."

So the amendments were agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title I?

AMENDMENT OFFERED BY MR. DELAY

Mr. DELAY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DELAY: Page 18, strike lines 13 through 16.

Mr. SMITH of Iowa. Mr. Chairman, I ask unanimous consent that debate on the current amendment and all amendments thereto be limited to 40 minutes, to be equally controlled by the gentleman from Texas [Mr. DELAY] and myself.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. The time will be limited to 40 minutes, to be equally divided between the gentleman from Iowa [Mr. SMITH] and the gentleman from Texas [Mr. DELAY].

The Chair recognizes the gentleman from Texas [Mr. DELAY].

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

Mr. Chairman, I rise today in opposition to language contained in the Labor, HHS appropriations bill and offer an amendment to strike this onerous provision. The language in the bill would prohibit the Secretary of Labor from using any funds to implement or administer the final Davis-Bacon helper regulations. These regulations are court-tested, final regulations which the Department of Labor had already begun implementing before the current prohibition. The language contained in the bill arbitrarily prohibits these regulations without ever giving them the opportunity to work or realize any of their projected benefits.

Helpers are semiskilled workers who work under direct supervision of higher skilled journey-level workers. Helpers are widely used in the private sector, where approximately 75 percent of all construction work is performed by contractors who use semiskilled helpers. The helper regulations serve the original purpose of the Davis-Bacon Act—bringing practices on Federal construction projects in line with locally prevailing practices on private work. In fact, Vice President GORE's National Performance Review recently recommended changes to bring the antiquated Davis-Bacon Act into the realities of today's construction marketplace, which these regulations clearly do.

Under the regulations, helpers are paid the locally prevailing wage rate for the type of work they perform. Without the helper regulations, all workers on Federal projects, regardless of task, must be paid the high-wage rate paid to a skilled craftsman. In this way, the helper classification serves as an entrance into construction for groups not traditionally prevalent in the industry—for example, minorities and women. The helper classification serves as a strong first step up the job ladder for workers who are interested in furthering their education and pursuing a career in construction. Forcing contractors to pay all workers the high journey-level wage rate effectively precludes groups who have not previously trained in construction from having the opportunity to work on Federal construction projects.

I would also like to mention that one of the chief opponents to the helper regulations, organized labor, has seen

fit to allow their own classification of helpers or subapprentices over the last decade in order to meet the private marketplace's changing needs. However, they are refusing to allow the taxpayer to enjoy the same advantage for fear of losing their crown jewel, their cash cow, and their control over young people's entrance into the construction industry together with their stronghold in the Federal construction market.

It has been estimated that when the helper classification becomes widely used on Davis-Bacon projects, an estimated 250,000 jobs will be created and \$600 million a year will be saved. By prohibiting helpers on Davis-Bacon projects, we are further aggravating the very problems which top the American agenda today—our Nation's huge Federal deficit, lack of job creation, and near-stagnant economy.

More than a decade of litigation and debate regarding the helpers issue has culminated in favorable rulings by both the U.S. District Court (1990) and the U.S. Court of Appeals (1992), affirming that helper regulations are fully in-line with the purpose of the Davis-Bacon Act. The Supreme Court denied an appeal of those rulings.

With all the benefits associated with the helper regulation—benefits to contractors, disadvantaged workers, and the Federal Government—one may wonder why we are arbitrarily prohibiting their implementation. Supporters of this ban will tell you it is to protect against shoddy construction and unsafe working conditions for construction employees. Come on. This argument simply does not hold water. Let us face it, this arcane system only exists on Government construction projects. Nonunion and union shops both have helpers on private construction projects.

As I previously mentioned, in the private sector more than 75 percent of all construction is performed by contractors who use semiskilled helpers. There is simply no rationale for assuming that Federal construction is any different than private construction in this regard. A recent OSHA study found that open shop employers, the majority of whom employ semiskilled helpers on their jobsites, are safer than their union counterparts. The OSHA report, "Analysis of Construction Fatalities"—The OSHA database 1985-89 showed that over the 5-year period of the report, the unions experienced a fatality ratio of 20.9 per 100,000 workers—more than 25 percent higher than the open shop's 15.1 per 100,000 workers. While construction unions account for approximately one-fifth of the total work force, they also account for more than one-fourth of the fatalities in the industry. The safety of construction employees would not be affected by the use of helpers on Davis-Bacon construction projects.

Further, construction must be performed to specifications and contractors are not paid for faulty work. Plain and simple, if a contractor were to perform shoddy construction, he would jeopardize his payment and his reputation. Quality of Federal construction would not be jeopardized by employing helpers on those projects.

Although the committee has seen fit to continue to allow this 1 year ban of the Davis-Bacon helper regulations, I would like to reiterate my strong objection to this prohibition. The helper regulations have been one small positive step toward alleviating the burdens imposed by the outdated, unnecessary Davis-Bacon Act. They at least help bring the law back to its original intent, which it certainly does not meet in practice today. The Davis-Bacon Act and this prohibition discriminates against minorities and women and the very group it intended to help—small, local contractors. It continues business as usual by lining the pockets of the unions with taxpayer dollars.

I suggest that all Members take a close look at the prohibition provision contained in this legislation and consider it when voting on this appropriations bill.

□ 1810

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the DeLay amendment to strike the "helpers" provision from the Labor-HHS-Education appropriations bill.

The provision at issue prohibits the Department of Labor from implementing revised "helpers" regulations which control the wages paid to certain workers on Federal construction projects subject to the Davis-Bacon Act.

The Davis-Bacon Act requires that contractors who undertake Federal construction projects pay the local prevailing wage to mechanics and laborers on those projects. The act protects workers employed building Federal projects. The fundamental policy of the act is that the existence of Federal construction should not undermine the prevailing wages and benefits in local communities.

A secondary benefit of the act is that it ensures quality construction of Federal buildings. Quality construction saves money in the long run; a valuable objective when public money is at stake. Payment of prevailing wages insures that firms that use highly skilled, highly paid workers are not underbid by unscrupulous contractors using unskilled low-wage labor.

In the early 1980's, the Reagan administration Department of Labor promulgated rules which would have allowed payment of lower wages to help-

ers who performed tasks in conjunction with journeymen and laborers. These regulations changed prior rules regarding the use of helpers in that they allowed creation of a separate classification and wage scale for helpers even when their duties overlapped with those of journeymen and laborers and even when the contractor had no formal certified training programs for the helpers.

These regulations, if implemented, would have harmful effects. First, they would allow contractors to shift work from highly productive journeymen to lower skilled and lower paid helpers. Second, they would undermine apprenticeship training programs because contractors would substitute helpers for apprentices. Both of these practices run contrary to the goal of creating high skilled, high paying jobs in the Nation instead of low skilled dead end work.

The implementation of these regulations was stalled for several years by litigation during the Reagan and Bush administrations. In the meantime, the House and the Senate have voted several times to bar the implementation of these regulations in the past 3 years. The moratorium in the current bill extends the one adopted last year in the House-Senate conference report for Labor-HHS-Education appropriations for the 1994 fiscal year.

The Department of Labor has informed us that it intends to issue revised helpers regulations within the upcoming fiscal year. These regulations should resolve this issue. The provision in the appropriations bill will allow the conclusion of the administrative process without decreasing the standard of living enjoyed by construction workers. Accordingly, we ask for your support in defeating the DeLay amendment.

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. STUPAK].

Mr. STUPAK. Mr. Chairman, I rise in opposition to the DeLay amendment. When we talk about helper, what are we talking about? We are talking about a new subclass of worker, a worker where we are not required to pay any benefits. We are not required to put in any training. All we have to do is give them the lowest possible rate, not the highest, but the lowest.

The gentleman from Texas says Davis-Bacon has the highest possible rate. That is not true. Davis-Bacon is the prevailing rate based upon the marketplace in that locality. It is not the highest possible rate.

The Associated Building and Contractors Organization, not known to be a union organization, claims that if this amendment goes through, 40 percent of the current work force under Davis-Bacon will be replaced by a lower class, lower-paid worker, low-paid workers, low-skilled workers, these so-called helpers.

Let us protect the working men and women of this country. Let us protect those who paid their dues, who worked through this system from apprenticeship.

Mr. Chairman, defeat the DeLay amendment.

□ 1820

Mr. SMITH of Iowa. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. FILNER].

Mr. FILNER. Mr. Chairman, I rise today in strong opposition to this amendment by the gentleman from Texas.

Skilled American workers are under attack—right here in the Halls of Congress—the very institution that should be protecting them.

What America needs and deserves today is a better trained, more highly skilled work force. If we were to pass this amendment we would be guaranteeing the exact opposite—a labor force that is dangerously undertrained and ill-informed. We cannot allow this.

Federal construction jobs today require the best workmanship available—work that is the product of intensive training and on-the-job experience. Funding these proposed changes to the Davis-Bacon Act would ultimately serve to deny our workers safe and thorough training. They deserve quality training—and nothing less.

The previous two administrations undermined the strength and quality of America's work force, and this amendment continues that misguided tradition. I believe this new administration and this new Congress are friends and supporters of American workers—let's not betray our country's most valuable resource.

Vote "no" on this amendment.

Mr. DELAY. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, we ought not be discussing Davis-Bacon on an appropriations bill today. Unfortunately, the Appropriations Committee has once again decided to include a legislative rider regarding the Davis-Bacon Act in an appropriations bill. I hope that we can end this annual process of debating the Davis-Bacon Act as part of the appropriations process by striking this legislative rider from the bill.

This rider would overturn regulations issued by the Department of Labor allowing the use of semi-skilled helpers on contracts subject to the Davis-Bacon Act. These regulations have been developed over the last 10 years through a painstaking and thorough process. They have passed every conceivable court test. The courts have repeatedly held that the regulations are consistent with the intent of the Davis-Bacon Act.

This amendment is an issue of fiscal responsibility, efficiency and increased

competition in Federal construction and creating jobs. According to CBO the helper regulations will reduce the cost of Federal construction by approximately \$600 million a year once they are fully implemented. Over the next 5 years, they will result in savings of nearly \$2.3 billion.

By allowing contractors on Federal construction projects to utilize the more flexible work rules that are used in the private sector, the regulations will open up Federal construction to many small and minority contractors who are unable to compete for Federal contracts today. Without the regulations, contractors who want to compete for Federal contracts have outdated workrules imposed on them. For example, the same unskilled worker must be classified as a journeyman carpenter to carry lumber one day and reclassified—with all the attendant paperwork—as a journeyman plumber to carry or hold pipe the next day. Thus, labor is allocated inefficiently, costs rise, and semi-skilled workers are denied entry-level jobs. The regulations reflect changes in the construction industry since the passage of the act in 1931. The utilization of helpers was virtually non-existent in 1931, but has become a widespread practice in private construction. Today, about 75 percent of the construction industry uses helpers for semi-skilled and unskilled tasks to assist a variety of skilled craftsmen on private contracts. The regulations are consistent with the intent of the Davis-Bacon Act—that Federal contracts should reflect the local market and that the Federal Government should not use its power to impose a wage structure on local markets.

Mr. Chairman, we should not make a legislative change of this magnitude in a rider on an appropriations bill. The House should deal with the issue of Davis-Bacon in the proper way—in authorizing legislation. There are several proposals to make changes in the Davis-Bacon Act. HARRIS FAWELL and I have introduced comprehensive reform legislation. The National Performance Review proposed modest reforms of the Davis-Bacon Act. AUSTIN MURPHY has proposed Davis-Bacon legislation as well. If we are to consider changes in the Davis-Bacon Act, we should resolve all of the issues regarding the Davis-Bacon Act by debating all of these proposals and any other suggestions on how the Davis-Bacon Act can be improved, instead of going through the annual process of legislating on an appropriations bill.

When a similar rider was included in the Labor—HHS appropriations bill last year, the committee report stated that the Appropriations Committee would not continue the prohibition but would allow this issue to be resolved through the authorization process. It has been over a year since then, and we are still waiting for an authorization

bill to come out of subcommittee. We should return this issue to the place it belongs—the authorizing committee. There are ongoing discussions to see if there is a resolution to the issue of Davis-Bacon that is acceptable to all sides of this body. These discussions may not succeed, but we should not undercut these good-faith discussions through legislative riders on an appropriations bill.

I urge my colleagues to strike this legislative rider from the bill.

Mr. SMITH of Iowa. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS. Mr. Chairman, I rise in vigorous opposition to the DeLay amendment.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I rise in strong opposition to the DeLay amendment. I do so as someone who has supported the Davis-Bacon law through the years.

I believe very strongly that what we are talking about, Mr. Chairman, is reducing the cost of building government projects to the taxpayers. That has appeal to me as a fiscal conservative. However, the problem is this. What we are really talking about doing, Mr. Chairman, is reducing the cost of wages to workers in this country.

I happen to believe very strongly that when the government, whether it is the city, the county, the State or the Federal Government, builds a building, we as a matter of public policy should be prepared to pay the workers that are building that building a living wage. That is what we are talking about.

Mr. Chairman, that includes benefits, so that these workers do not show up in our emergency rooms without health care, or that they do not show up on welfare later on in life because they do not have some kind of a retirement program to take care of their family, or themselves.

Mr. Chairman, I think this is a penny-wise, dollar-foolish concept. I urge my colleagues to vote against this amendment.

Mr. Chairman, this is a fundamental question of whether we are going to pay working men and women who have hammers in their hand every day across this country a living wage, yes or no. I believe as a matter of public policy, when it comes to building government projects, we should be committed to paying our working men and women a living wage.

Mr. Chairman, I urge opposition to this amendment.

Mr. DELAY. Mr. Chairman, may I ask how much time I have remaining?

The CHAIRMAN. The gentleman from Texas [Mr. DELAY] has 9 minutes remaining, and the gentleman from

Iowa [Mr. SMITH] has 14 minutes remaining.

Mr. DELAY. Mr. Chairman, I yield myself such time as I may consume. Before I yield to the gentleman from Hawaii, I would just respond to my good friend from Kansas.

As many as 75 percent of all construction jobs, Mr. Chairman, are not union wages or under the auspices of the Davis-Bacon Act, and they are making livable wages. Mr. Chairman, the whole point of this is letting people get into the construction industry that have been prohibited from doing so because of arbitrarily set wage rates.

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. BOEHNER].

Mr. BOEHNER. Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Texas.

It is now 10 years. That is how long this issue has been debated and litigated in the courts. In 1990, the U.S. district court held that the helper regulations were fully consistent with the Davis-Bacon Act. In 1992, the U.S. court of appeals followed suit in reaching the same decision. The U.S. Supreme Court denied an appeal of these rulings. Now, we are faced again with congressional action which would fly in the face of these judicial decision by prohibiting the implementation of the Department of Labor's helper regulations.

As Mr. DELAY explained earlier, helpers are semi-skilled workers working under the supervision of higher skilled workers on construction projects. The private sector uses these helpers in 75 percent of all construction work. Now, we simply want Federal contractors to have the same right to use them in projects falling under Davis-Bacon.

There are many benefits to the helper regulations—foremost of which is giving the semi-skilled a foot in the door. These workers want to start their way up the ladder of success, but the lack of these regulations hold them down and prevent them from getting ahead. Unfortunately, these actions tend to hurt the minorities and women most.

It has also been estimated that these regulations would help create 250,000 jobs and save the Federal Government \$600 million a year. In a time of economic uncertainty and budgetary constraints, it is time we use some fiscal sanity. People need to work and the Federal Government needs to save money.

Mr. Chairman, I will be the first to admit that I do not much care for Davis-Bacon. In fact, I want to outright abolish it. I believe it is an anachronism of the New Deal and is costing the American taxpayer hundreds of millions of dollars a year. However, if we are not going to repeal it, we might as well lessen its impact. This amendment would do this by

opening the Federal construction market to those who are currently prevented from entering it. I urge its adoption.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise in strong opposition to the amendment offered by Mr. DELAY. Mr. Chairman, there is a good reason these regulations have never been fully implemented. The regulations in question were crafted in 1982 to accomplish a simple goal—rob American construction workers of the opportunity to move into and to hold on to good, high-skill, high-wage jobs.

First, these regulations were designed to undermine our States' right to build strong apprenticeship programs—programs that give young working men and women entering the work force the training and skills vital to a future that holds more than just the promise of dead-end, low-wage jobs.

Second, these regulations were designed to encourage replacing skilled construction workers—many of whom are graduates of the very apprenticeship programs under attack from these same regulations—with the use of unskilled, low-wage workers.

So let us be clear what this debate is about:

It is about whether we allow implementation of a regulation that would cause massive job losses among good, skilled construction workers as some contractors move to substitute these workers with lower-paid helpers.

It is about whether we jeopardize construction quality and safety by enabling the employment of semi-skilled and unskilled helpers to perform work previously done by skilled workers.

It is about whether you support or oppose giving young people just entering the construction trades the right to receive good training that leads to good jobs.

Secretary Reich is now in the middle of working with all interested parties to find a solution to the helper issue. It is the administration that asked the committee to continue the prohibition for 1 additional year to have enough time to resolve the issue in a sensible and responsible manner. A solution that moves us further along the road to a skilled work force vital to our Nation's global competitiveness.

Mr. Chairman, I urge that the amendment be defeated. We must give the administration the time needed to resolve this issue in a way that protects the livelihoods and the lives of American construction workers.

□ 1830

Mr. DELAY. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. VALENTINE], a gentleman who is retiring from this House and will duly be missed because he is a stal-

wart on this issue and we appreciate all the work that he has done on this issue.

Mr. VALENTINE. Mr. Chairman, I rise today in support of the DeLay amendment to the Labor, HHS, Education appropriations bill.

Mr. Chairman, this body, the other body, administrations, and the courts of this country have been dealing with the Davis-Bacon Act and its meanings since long before I came to Congress. It seems we have toiled with this issue every year. In an effort to put an end to this battle, the Clinton administration's Department of Labor issued regulations to govern the use of helpers on Federal construction contracts. Yet, still we continue to have our battles today.

The DeLay amendment would strike from this bill language that effectively prohibits the U.S. Department of Labor from implementing helper regulations and thereby allowing the Labor Department to implement their plan to bring Federal construction in line with private construction—allowing the use of helpers in many instances.

Allowing the use of helpers on Federal contracts means the Government can save money, while allowing untold numbers of young Americans to gain experience in the construction industry. CBO and GAO studies have shown that full implementation of helper regulations could save this country around \$600 million in Federal construction labor costs and could create as many as 250,000 new jobs in the industry. Given the extremely high unemployment rate in the construction industry, these jobs are desperately needed.

The Labor Department regulations do not seek to eliminate the protections under Davis-Bacon, but simply to augment them by allowing the use of helpers where that is practical.

Mr. Chairman, it is time to eliminate the ban on construction helpers. I urge my colleagues to join me in support of the DeLay amendment.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BECERRA].

Mr. BECERRA. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I would urge my colleagues to oppose this amendment. Let me tell my colleagues why. I have a father who for 30 years was a laborer in construction and on many occasions he worked on Federal projects, mostly on freeway projects. Contrary to one of the earlier speakers, the gentleman from Ohio who said that Davis-Bacon hurts minority workers, let me tell my colleagues, Davis-Bacon helps minority workers. My father would not be able to say he is a pension member of the Laborers Union with benefits, with the opportunity to have some health care were it not for the fact that there are

provisions in our laws like Davis-Bacon that made sure that my father, a minority worker, a laborer, was able to not only provide his skills in this construction project but at the same time understand that he would be protected as well because he has been providing some good work at a decent wage.

I would urge the Members to look at these helper provisions that were passed back in the 1980's and see that, in fact, we are not talking about helper provisions, we are talking about provisions that tell an employer that he can hire someone and call the individual a helper and never provide any further training to get that person to become a journeyman, someone who can become very skilled in that particular area and at the same time never provide the benefits or protections that most workers would want and deserve given the work that they do.

Let us provide the dignity to every worker, the dignity that we all deserve and would like to have not only for ourselves but for our children. Let us make sure that anyone who works on any project is able to say that they have provided us what we deserve as taxpayers and American people, and that means a good construction project that provides dignity to the workers that help build America.

I urge my colleagues to vote against this particular amendment.

Mr. DELAY. Mr. Chairman, I feel honored to yield 3½ minutes to the gentleman from Illinois [Mr. FAWELL], who serves on the Committee on Education and Labor and does tireless work on that committee.

Mr. FAWELL. Mr. Chairman, I rise in support of the amendment. Obviously, as has been indicated, an appropriations bill should not be loaded with important major labor legislation as this bill is. This bill will knowingly waste billions of dollars of taxpayer money on Federal construction and will deny thousands of semiskilled entry workers the opportunity to gain the experience they need to break into the construction field, including nontraditional workers such as minorities, women, and native Americans. How is this done? By simply refusing to let the Department of Labor, not contractors, by the way, but the Department of Labor, to implement new rules which would allow for a job classification which they would create, not contractors, for the use of journeymen helpers in Federal construction when it is the prevailing custom in the area of the construction project.

Mr. Chairman, we have already talked about what these journeymen helpers are. In the spring of 1993 after nearly a decade of litigation with construction labor unions, the Department of Labor was finally authorized to begin implementation of a new helper regulation in regard to federally financed construction projects. But

shortly thereafter, the Department was forced to suspend the implementation because we had an appropriation bill like this which simply said:

We are going to pull out all funds and you will not be able to implement what the court has said you have every right to implement and what the Department of Labor wants to implement.

Both the district court and the court of appeals has found that the DOL helpers' regulations are totally consistent with the language of Davis-Bacon and as has been brought out, over 75 percent of all construction work in this Nation is done by private construction where journeymen helpers are used extensively.

Do Members think construction standards in the private sector somehow are inferior in quality when compared to Federal buildings? Of course not. Are they lower in cost? You bet they are.

Why? Because without helpers, there are more journeymen obviously being paid at journeyman wage rates of, say, \$30 or \$35 or \$40 an hour as opposed to helper wage rates at \$10 or \$12 per hour. That does not mean we are taking away journeyman jobs, it simply means that journeymen have semi-skilled helpers and, yes, these helpers will also learn how to be journeymen and they can actually use a hammer on a job or a saw or something like that. Of course, construction unions don't like those kinds of prevailing job classifications.

Mr. Chairman, this can save taxpayers something like \$600 million per year according to CBO and GAO. The whole concept of Davis-Bacon, after all, is that the prevailing wages and the prevailing job classifications defined and authorized by the Department of Labor, not by contractors, will be what controls in federally funded construction projects. But the construction trade unions will not allow it. They have fought the new job classifications in the courts since 1982. They lost, they always lost. So each year they come back to the court they control. What court do they control? They control Congress, and they come back to their friends to make sure that the taxpayers have to continue to pay unnecessary higher union rates for Federal construction projects. I say unnecessary higher rates.

Is there any Member who would insist that in building his or her home the contractor, for instance, must use plumbers, carpenters, and other journeymen at journeyman wage rates to do semiskilled work which is normally performed by journeymen helpers? We would never do something like that. Then why in the world do we insist that when we build Federal buildings that helpers for journeymen cannot be used? Do Members know why?

Because it is the people's money, it is not our money. We will not do what is

done in common sense, in construction in the private sector. We ought to do it in the public sector, too, and save \$600 million per year to boot.

Mr. Chairman, it is a good amendment. We ought to pass it.

□ 1840

Mr. DELAY. Mr. Chairman, I yield myself 1 minute, the remainder of my time.

Let me just say that I greatly appreciate the gentleman from Illinois and his remarks.

The members of the Black Caucus and the members of the Hispanic Caucus ought to really take note, the chairman of Ed and Labor gave us a little history of Davis-Bacon, but he always leaves out the history. The reason Davis-Bacon was passed, and I will show you in the CONGRESSIONAL RECORD the speech that was made, was to keep blacks from competing for construction jobs in the Northeast.

And I use the term "blacks." They used another term in the CONGRESSIONAL RECORD. That is the reason for Davis-Bacon, is to keep competition out, particularly minorities and women.

If you do not believe me, what was all of that protest about in Chicago just a couple of weeks ago, because the blacks were complaining about the white-faced construction unions taking all the jobs and not allowing minorities to participate in these construction jobs? What we are saying is if you have helper provisions then that allows the semi-skilled worker an entry into the construction industry. That is what we are talking about. We are not keeping people out or lowering wages.

In fact, the prevailing wages are always the union wages.

I ask you to support the DeLay amendment and allow everyone to participate.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself the balance of my time.

I would point out to the gentleman from Texas another reason it passed is because President Hoover was for it.

Things have changed since those days, have they not?

These regulations have been around in one form or another since 1982. They were blocked by the Federal courts for many years, and then were given approval in 1990 finally, this regulation and rule, and Congress blocked them again in a supplemental bill in 1991. They were allowed to go into effect in 1992 and 1993, and in the fall of 1993, that is a year ago, again, there was this provision put into the bill, and there was a separate motion on it. It is the same Congress we have now, so I assume everybody knows how the majority would vote, and I assume they would vote the same way.

This provision was requested again this year, because the administration is negotiating, I hope, a final settle-

ment to this. They are going to change the regulation.

The chairman of the Committee on Education and Labor spoke here today. He says, "Give them another year. Give them 1 more year with this limitation." The administration has sent a letter up here; the Secretary of Labor says, "Give us another year." This is the kind of thing that you cannot settle just by having the existing regulation or not having any regulation at all. He says they are trying their best through negotiation and rulemaking to settle this.

So I say just leave this in the bill this year. Give them 1 more year, and the gentleman from Texas will not have to do this every year after this.

Let us vote "no" on it today.

Mr. RAHALL. Mr. Chairman, there is a 1-year moratorium in the Labor-HHS-Education bill to prohibit the Department of Labor from implementing 13-year-old Reagan-era regulations designed to create a subclass work force called helpers under the Davis-Bacon Act. I rise in opposition to the amendment to strike the moratorium.

Supporters of these regulations say: But they will assure jobs for women and minorities in the construction field. They sure would.

As I just stated, to allow the hiring of helpers would deliberately create a subclass of workers, who would be given no skills training, no health and safety standard training, and who would be paid very low wages on a very permanent basis.

Creating this new subclass of workers will cause massive job losses, with current workers being replaced by the newly created helper who works cheap.

If you think contractors won't jump at the chance to fire skilled workers to hire cheap labor, think again.

This new subclass of helpers will have no training for their jobs, and absolutely no knowledge of life-and-death health and safety standards that must be met at dangerous worksites.

What loss of life and limb might result from a work force with no health and safety training? Are women and minorities expendable human beings? Is that any way to treat women and minorities?

The rising costs of workers' compensation from workplace accidents is already of grave concern to this body and to industry. Are we deliberately setting out to make it worse? Have we set a price on the value of life and limb?

I am deeply concerned over the growing trend of creating jobs in this country that are low-skilled and that provide wages so low as to sentence workers to a lifetime of poverty.

We started this trend by enacting NAFTA which has caused a mass exodus of jobs from the United States.

To date, 126 companies from 29 States, including West Virginia, have moved to Mexico. Those jobs are gone.

I am trying to create jobs in the construction industry that will rebuild the transportation infrastructure of America. I not only want those jobs to be well-paying jobs, I want the jobs performed by skilled laborers in a safe work environment.

Let us treat women and minorities as first-class citizens entitled to local prevailing wages, to skills training, to health insurance and to pension plans, as allowed under the Davis-Bacon Act.

Let us say no to making women and minorities into a permanent subclass or underclass of citizens in America's work force.

Defeat the amendment to strike the moratorium.

Mr. BALLENGER. Mr. Chairman, I rise in support of the DeLay amendment.

The Labor, Health and Human Services appropriation bill for fiscal year 1995 prohibits the Secretary of Labor from using any funds to implement or administer the final Davis-Bacon helper regulations. The DeLay amendment strikes this burdensome provision from the bill.

Under current policy, union workers on federally funded projects are divided into various classifications. Helpers are unskilled workers who work under the direct supervision of higher skilled journey-level workers. If a contractor wants to hire an unskilled worker then the contractor must pay the helper the same wages as the skilled worker. Approximately 75 percent of all construction work is performed by contractors who use seimskilled helpers.

Over a decade ago, the Department of Labor initiated regulations to allow the use of semiskilled helpers on Davis-Bacon projects. After years of administrative review and litigation the courts affirmed that the Department of Labor's helper regulations were fully consistent with the language and purpose of the Davis-Bacon Act—that Federal contracts should reflect the local market, and that the Federal Government should not use its power to impose a wage structure on the local markets. Unfortunately, congressional intervention prevented the regulations from taking effect.

Estimates show that if the helper classification were to become widely used on Davis-Bacon projects, 250,000 jobs would be created and the Federal Government would save \$600 million a year. Furthermore, construction industry advocates indicate that the helper classification would open up the job market to many individuals who are not currently employed in this area including minorities, women, the disadvantaged, and many entry-level workers.

Vote for the DeLay amendment. Vote for the opportunity to benefit workers, contractors, and taxpayers by allowing the use of helpers on Davis-Bacon projects.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DELAY].

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, VII, VIII, X, XII, XVI, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as

amended, Public Law 101-527, and the Native Hawaiian Health Care Act of 1988, as amended, \$3,008,225,000, of which \$411,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: *Provided*, That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further*, That of the funds made available under this heading, \$933,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: *Provided further*, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, \$9,000,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

For the cost of guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed at not to exceed \$375,000,000. In addition, for administrative expenses to carry out the guaranteed loan program, \$2,946,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided*, That for necessary administrative expenses, not to exceed \$3,000,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

VACCINE INJURY COMPENSATION

For payment of claims resolved by the United States Court of Federal Claims related to the administration of vaccines before October 1, 1988, \$110,000,000, to remain available until expended.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, and XIX of the Public Health Service

Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, \$2,086,850,000, of which \$3,575,000 shall remain available until expended for equipment and construction and renovation of facilities, and in addition, such sums as may be derived from authorized user fees, which shall be credited to this account: *Provided*, That for fiscal year 1995 and subsequent fiscal years training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further*, That funds appropriated under this heading for fiscal year 1995 and subsequent fiscal years shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further*, That for fiscal year 1995 and subsequent fiscal years amounts received by the National Center for Health Statistics from reimbursements and inter-agency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further*, That in addition to amounts provided herein, up to \$27,862,000 shall be available from amounts available under section 241 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys.

AMENDMENT OFFERED BY MR. KLUG

Mr. KLUG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KLUG: Page 23, line 5, strike "\$2,086,850,000" and insert "\$2,073,600,000".

Mr. SMITH of Iowa. Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto close in 30 minutes.

The CHAIRMAN. With the time to be equally divided between the gentleman from Wisconsin and the gentleman from Iowa? Is that correct?

Mr. SMITH of Iowa. Yes, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

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

Mr. Chairman, this amendment would strike \$13 million from the Centers for Disease Control funding, and this amount represents the cost of operating a new national vaccine warehouse in Burlington, NJ, run by the General Services Administration. This is an outgrowth of the administration's plan last year to set up a new national vaccination program.

Incredibly we now find ourselves in the situation where the Federal Government is going to run and operate a warehouse to handle nearly 30 percent of the vaccines to take care of this country's children. There was nothing whatsoever in extensive testimony last year in the Committee on Ways and Means and the Committee on Energy and Commerce, on which I serve, or here on the floor of the House to indicate there has ever been a problem anywhere with the distribution system in this country.

The General Services Administration quite frankly lacks the infrastructure and experience to move hundreds of millions of fragile and highly sensitive biological products safely under a tight schedule and under strict Food and Drug Administration requirements.

One-third of the Nation's vaccines will be stored in a room that previously stored paint thinners and solvents, and according to the General Services Administration's own diagram, right next to a room that is referred to on their drawing plans as "the flammable room." So we are now going to figure out and put into place a new Federal bureaucracy where a manufacturer in California will ship drugs to a GSA warehouse in New Jersey which, at this point, handles chairs, tables, paper clips, and paper. We are going to ship from a pharmaceutical company in California to a Government warehouse in New Jersey where a doctor now in California will have to call the State of California, who will then call the Centers for Disease Control, who will then call New Jersey so we can finally then ship the vaccination back to California. What kind of sense does this make at all, Mr. Chairman?

Now, incredibly the Centers for Disease Control says it cannot even verify the GSA distribution will be cheaper than private-sector distribution. In fact, we find ourselves in a situation where we have already bypassed and surpassed the 2000 goal of 90 percent immunization against diphtheria, tetanus, whooping cough, and polio, and my colleague, the gentleman from Pennsylvania [Mr. SANTORUM], will talk more about those goals in a minute.

The bottom line is we are going to spend \$18 million to do what the private sector does and trust the General Services Administration doing it.

Incredibly we are about to do this when there are two General Accounting Office reports, one on the Department of Defense, one on the Department of Veterans Affairs, which urge both of these Government agencies to disband Government warehouses we already will run. So it does not work in the Department of Defense, and it does not work in the VA.

Why are we going to spend \$19 million that could be spent on outreach

programs and more nurses and more clinics to reach children, instead, so we can run a GSA warehouse full of vaccines and immunizations? I would make the point that I think that is absolutely nuts.

So this amendment simply strikes the funding for that part of the bill.

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

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will just say this: I understand the frustration the gentleman has. He has a hard time reaching the purpose of his amendment. He cannot really reach it, and so he strikes \$13 million out of an account which has things in it that I do not think he really wants to reduce, such as breast and cervical cancer screening, tuberculosis control, AIDS prevention, diabetes control, and injury control among others.

By reducing the money in the account, I mean, you can say what you do not want to do is to have this warehouse storage, but that is not what the amendment actually does.

□ 1750

You are expressing your frustration, but I do not think that we should do that.

So I oppose the amendment.

Mr. KLUG. Mr. Chairman, I yield 3 minutes to my colleague on the Committee on Energy and Commerce, the gentleman from Pennsylvania [Mr. GREENWOOD], a cosponsor of this amendment.

Mr. GREENWOOD. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the Klug-Greenwood-Hastert amendment which would strike the estimated \$13.25 million that would be needed by the Centers for Disease Control [CDC] to pay the General Services Administration [GSA] to operate a national vaccine warehouse.

The GSA's warehouse plan is the inevitable bureaucratic outgrowth of a poorly conceived, big government approach to childhood immunization. We are all committed to ensuring that all children are vaccinated and that vaccinations are available to children whose parents cannot afford them. But this is not the way to do it.

The most effective way to insure that children receive the immunizations recommended by pediatricians is to require their parents to have their children immunized as a precondition to receive Government subsidized day care, Aid to Families with Dependent Children, WIC, food stamps, pre-school and school services. The record is clear on this. But the administration has insisted on pursuing its command and control, Big Brother approach to immunizing children and now finds itself in the warehouse business once again.

The CDC has stated that it will purchase 80 percent of the Nation's vaccine supplies for children. Furthermore, it intends to use the GSA to store and distribute at least one out of three doses of this vaccine from a warehouse in Burlington, N.J. that currently is used to store paint solvent and thinner.

GSA has no experience with storing, handling, or tracking vaccines nor the strict licensure and inspection requirements of the Food and Drug Administration. I believe it would be irresponsible for the Congress to condone such a program which could easily put our children's vaccine supply in jeopardy.

The Federal Government will have to repack and deliver these vaccines to over 70,000 sites when the Vaccine for Children Program is implemented in October. In order to ensure that deliveries are made, the CDC and GSA will need to develop and operate, by October 21, a data delivery system that includes name, street address, days, and hours of operation, required doses and replacement schedules for all 70,000 health providers. I am greatly concerned that the proposed distribution system could both disrupt the country's supply of vaccines and put the integrity of the vaccine supply at risk.

Both the Department of Defense and the Veterans' Administration have learned the hard way that the Federal warehousing of medicine is a bad idea. They have turned to private, commercial wholesale distributors.

Mr. Chairman, the Vaccine for Children Program can best be operated by allowing the manufacturers of these vaccines to deliver them directly to the health care providers without a massive Federal warehousing operation.

Mr. KLUG. Mr. Chairman, I yield such time as he may consume to the other cosponsor of this amendment, another colleague of mine from the Committee on Energy and Commerce, the gentleman from Illinois [Mr. HASTERT].

Mr. HASTERT. I thank the gentleman for yielding this time to me.

Mr. Chairman, I hope everyone will listen carefully to what my distinguished colleague, Mr. KLUG, is trying to do. What we are talking about is striking less than 1 percent of funding for Centers for Disease Control so that we can avoid another costly, big-government blunder.

Mr. Chairman, like my colleagues, I want all American children to grow up healthy. They should be immunized against the horrible diseases which claimed so many lives before vaccines. But for some reason, the Department of Health and Human Services thinks that it can do a better job of distributing vaccines than private companies can. Despite studies to the contrary, HHS thinks that not enough children are being immunized. However, the most recent data show that we have

reached the goal of immunizing 90 percent of our children against some of the worst diseases.

So why should the Federal Government be involved in the distribution of vaccines? Earlier, HHS asked the Veterans Administration and the Defense Department to operate a depot for vaccine distribution. Those two agencies said no. Two government studies showed that health care products were distributed more cheaply and efficiently by private companies than by the government.

The simple fact of the matter is that this program is not needed, and this warehouse is simply another place to store government money.

Mr. Chairman, I urge my colleagues to support the Klug-Greenwood-Hastert amendment and strike the funding for this unnecessary warehouse.

Mr. KLUG. Mr. Chairman, I yield 1 minute to another one of my colleagues on the Committee on Energy and Commerce, the gentleman from North Carolina [Mr. McMILLAN].

Mr. McMILLAN. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the amendment. I really do not understand why we need to debate this issue. Why is the Department of Health and Human Services refusing to follow the law as it was written by Congress? And why at a time of scarce financial resources is the Federal Government attempting to duplicate what the private sector and the States do very well?

The \$3.25 million that the amendment would strike from the Labor-HHS appropriations bill is money that the Federal Government does not have to spend because the private sector and the States already do the job of supplying and distributing vaccines very well. And it is estimated at a cost that would be far lower than the proposed cost of this HHS project.

We appropriately hear the litany of Members who say they want to cut the deficit. If you want to do that, why spend money to fund a request that does nothing more than federalize existing programs that are already extremely efficient and are providing vaccine at a lower cost and with better availability than the proposed program?

The problem is not the availability of vaccines at an affordable cost, the problem is educating people to take advantage of a program that is already available.

If you want to spend more money, spend it on education, not on duplicating an efficient system.

So, I urge my colleagues to support this amendment and perhaps HHS will get the message and get the focus in the right place.

Mr. KLUG. Mr. Chairman, I yield 2 minutes to my classmate, the gentleman from Ohio [Mr. HOBSON].

Mr. HOBSON. I thank the gentleman for yielding this time to me.

Mr. Chairman, I rise in support of the amendment offered by Representative KLUG to prohibit the operation of a Federal warehouse for the administration's Vaccines for Children Program.

I have been concerned for some time about this new vaccine program and the reduced funding requested for the traditional 317 allocation for vaccines. As a result, a number of children in 66 of 88 counties in Ohio—particularly rural Ohio—may not have access to vaccinations.

While the administration seeks to cut by half the section 317 money—which has successfully provided vaccine to local public health clinics, it also seeks to spend over \$13 million to fund a monument to bureaucracy in a New Jersey warehouse.

I have a better idea for the \$13 million in taxpayer funds: let us use it to restore funding to the existing vaccine program.

Nothing in the law establishing the new vaccine program says anything about creating a warehouse. The Government has turned down offers of private companies to distribute the vaccines as they currently do, and instead is intent on stockpiling them in a warehouse previously used for toxic substances, and distributing it without the private industry's state-of-the-art system.

A bureaucratic Government warehouse distribution is all wrong. Funding this program is throwing Federal dollars at a problem that doesn't exist. Altering the traditional vaccine program is fixing a program that isn't broken.

As you have heard today, the problems with this idea are numerous. But the biggest problem is that the Department of Health and Human Services fails to recognize the potential failures of a Federal vaccine warehouse. What will it take to make them understand?

Will it be the loss of millions of vaccines due to a faulty refrigeration system? Or will it be the contamination of serum resulting in illness or loss of a child's life?

I believe that the administration and HHS are doggedly pursuing their agenda in an effort to save face. In the meantime, who will save these children?

Why take the risk? Let us eliminate the funding for this ill-funded effort now. Restore the funds to 317, and support the Klug amendment.

Mr. KLUG. Mr. Chairman, I yield 3 minutes to another one of my classmates, the gentleman from Pennsylvania [Mr. SANTORUM] who helped lead the same fight in the Committee on Ways and Means.

Mr. SANTORUM. I thank the gentleman for yielding this time to me.

Mr. Chairman, this is an amazing story of how a good intention of the Congress has run amok. Just a year ago here on this floor we passed the

vaccination for children program. The reason we did it was based on data that only 40 to 50 percent of the children by age 2 were receiving the necessary vaccination. The fact of the matter is the data we used then was 7 years old. We now have new data from July of 1993. The goal set out last year by the vaccine for kids program was to get 90 percent of 2-year-olds vaccinated by the year 2000.

□ 1900

I am here to announce that we have accomplished that as of last year. We have 90 percent, and this is the CDC's own numbers; 90 percent get their diphtheria, tetanus and pertussis as of last year. Ninety percent receive their polio, and 86 percent receive their measles, mumps and rubella. We have already accomplished with the existing system, the 317 money and the private sector, we have already accomplished what this vaccine for kids program was put into place to accomplish 6 years from now, and we are going to spend billions of dollars, billions of dollars, setting up warehouses in New Jersey, wasting vaccines all over the country. The State of Illinois ordered 120 percent of their required vaccines. Why? Because they recognized that because of the distribution system set up by the Federal Government under this plan it will be 25 percent will be wasted in delivery. This is a boondoggle.

Mr. Chairman, I commend the gentleman from Wisconsin [Mr. KLUG] for his \$13 million, but he has not gone far enough. This program needs to be scrapped and started all over again, and what are we doing? Not only are we not scrapping this program; oh, no. The program that we are taking money from to help fund this program, 317 program, which actually works to get money out into the minority community, into the poorer communities to try to outreach, has new delivery money to try to get people who cannot get immunizations. It is not because they are too expensive. It is because we do not have the proper delivery methodology to reach into the poorer communities to get these children of poor moms, to get them vaccinated. No, we are cutting that fund \$64 million. We are going to cut that fund, and we are going to fund vaccines for kids.

So, we set up warehouses in New Jersey where they store paint solvent. This is absurd. This is absurd. This Congress needs to act right now, right now to send a message to this administration to put the brakes on this train that is going down the track, ready to go over a cliff, cost billions of dollars and do more harm than good.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

Mr. Chairman, this amendment proposes to prohibit the Centers for Disease Control and the General Services Administration from developing a system for storing, handling and shipping federally purchased vaccines. The gentleman from Wisconsin has expressed concerns that GSA does not have the expertise to carry out this responsibility, and I wouldn't disagree. That is why the CDC and the Food and Drug Administration are also going to be a part of the development, implementation and oversight of the program.

In a further effort to allay concerns about the best permanent method of storing and distributing these vaccines, the GAO has been assigned to study and report on this question. If they report that a better way needs to be found, the Secretary will make the necessary changes at that time. In the meantime, however, only the GSA/CDC option gives us the ability to implement this badly needed program on time.

A number of allegations have been circulated recently, about the ability of the GSA and CDC to manage this program. Such allegations are simply not true. For example:

The CDC will only purchase the amount of vaccine necessary to implement the Vaccines for Children program. No additional vaccine, beyond existing needs, will be acquired;

The GSA/CDC vaccine purchase and delivery system will not supplant or disrupt existing State vaccine distribution systems. Fifty percent of all childhood vaccines will continue to be distributed by the States. Only those states that do not wish to be responsible for delivery will be a part of the federal system;

The CDC, contrary to some allegations, is perfectly capable of designing and implementing a safe, effective vaccine distribution system, executed by GSA. And the FDA will be called on to inspect the storage facility to ensure full compliance with all vaccine storage, handling, packaging and distribution requirements;

Nor will placing the vaccine supply in a central distribution facility put us at risk of losing our entire vaccine supply. In fact, less than 8 percent of the country's annual vaccine supply will be stored in the distribution facility at any one time. I urge my colleagues to leave off arguing about non-issues such as these, and refocus attention on the reason why we passed this legislation in the first place. Just 2 years ago, 45 percent of all American pre-schoolers had not been fully immunized. That is the real problem and that is why we must defeat this amendment, and get on with the task of implementing this vital program as quickly as possible.

Mr. KLUG. Mr. Chairman, I still have several requests for speakers on my side, and I would ask the distinguished gentleman from Iowa if he would yield

us part of his time so we can end this within our time constraints.

Mr. SMITH of Iowa. Mr. Chairman, how much time does the gentleman need?

Mr. KLUG. We would like to have 4 minutes.

Mr. SMITH of Iowa. Mr. Chairman, I ask unanimous consent that 4 minutes be transferred to the other side.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. The gentleman from Wisconsin [Mr. KLUG] now has 5½ minutes remaining.

Mr. KLUG. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. PORTER] who has raised this same issue within the Committee on Appropriations debate itself.

Mr. PORTER. Mr. Chairman, I want to concur with the gentleman's concern about the vaccine warehouse. He is very much on point. This is an issue that we discussed very extensively both at the subcommittee and the full committee, and the report that accompanies this bill now contains language which highlights the warehouse as a concern of the subcommittee. It requires the CDC and the GSA to comply with all applicable FDA guidelines and reserves judgment on the whole question of the warehouse pending the outcome of a GAO study that is due in July.

Mr. Chairman, this is a matter of great concern to me personally, as well as to other members of the subcommittee and, I understand, to Senator BUMPERS as well, over in the other body, and I very much thank the gentleman from Wisconsin for raising this issue.

For my part, Mr. Chairman, I will continue to watch the matter very closely in the conference.

Mr. KLUG. Mr. Chairman, I yield myself such time as I may consume to close debate on our side.

Let me emphasize this one more time:

The Federal Government has for several years already attempted to run health distribution centers in both the Department of Defense and the Veterans' Administration. In 1991 a General Accounting Office report entitled DOD Medical Inventory said reductions can be made through the use of commercial practice, and the GAO concluded that the private sector is more efficient at distributing health care products than the Government. In September of 1992, Mr. Chairman, a study by the Logistics Management Institute reached similar conclusions for the Department of Veterans' Affairs. It verified that the expense levels of government run depot systems were 12 times higher than subsequent commercial bids.

My colleagues, there is absolutely no reason in the world to have the Federal

Government spend \$13 million on a warehouse to store paint thinners and flammable products just a few steps down from fragile immunization programs. This is a Government that cannot run the Post Office and where mail gets lost in Chicago for weeks at a time, and now, if the vaccinations get lost, it is not simply a fact of a letter being a day late, or 3 days late, or a week late. It is a fact that American kids can die precisely as a result of Government mistakes and Government foul-ups.

I urge my colleagues to vote yes for this amendment so we can spend \$13 million on immunizing kids and not spend another \$13 million on a Government warehouse we do not need for a program that already has worked well in the private health sector.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, on the merits of whether or not there should be a warehouse I would point out that the States are going to be permitted to keep their own distribution system, if they want to, and a good many States will do that. They will not change things from the way they are now. As to those States that do not keep their own distribution system, the question is whether or not GSA will do the distributing or it will be done by a contract with the various pharmaceutical companies. The department says it will be a lot more efficient to do it through the GSA because then it will be delivered. No matter how many pharmaceutical companies it comes from, it will all be delivered together by Federal Express. Whether it is done by GSA through a warehouse or whether it is done by the pharmaceutical companies, Federal Express will deliver it anyway. But in the event the GSA does it, then they will package that from various pharmaceutical companies, send it to the same destination. They say it will cost a lot less money.

However, Mr. Chairman, we are not talking about the merits of that question here because the gentleman could not reach it without having language on the appropriations bill that would be against the rules. All he could do was to reduce the amount of money in a certain account, and that account happens to also include a lot of things besides this, including breast and cervical cancer screening, tuberculosis control, AIDS prevention, diabetes control, injury control, and a number of other things.

□ 1910

So actually, the amendment that the gentleman presents, through no fault of his own, does not really reach the question of whether or not there will be a warehouse anyway.

Mr. Chairman, I ask for a no vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

The amendment was rejected.
The CHAIRMAN. The Clerk will read.
The Clerk read as follows:

NATIONAL INSTITUTES OF HEALTH
NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, \$1,919,419,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE
For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, \$1,259,590,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH
For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, \$162,832,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES
For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, \$726,784,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE
For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, \$626,801,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES
For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, \$536,416,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES
For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, \$877,113,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT
For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, \$513,409,000.

NATIONAL EYE INSTITUTE
For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, \$290,335,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES
For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, \$266,400,000.

NATIONAL INSTITUTE ON AGING
For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, \$431,198,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES
For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, \$227,021,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS
For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, \$166,155,000.

NATIONAL INSTITUTE OF NURSING RESEARCH
For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, \$47,971,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, \$181,445,000.

NATIONAL INSTITUTE ON DRUG ABUSE
For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, \$290,280,000.

NATIONAL INSTITUTE OF MENTAL HEALTH
For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, \$542,050,000.

NATIONAL CENTER FOR RESEARCH RESOURCES
For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, \$294,877,000: *Provided*, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants: *Provided further*, That \$20,000,000 shall be for extramural facilities construction grants.

NATIONAL CENTER FOR HUMAN GENOME RESEARCH
For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, \$152,010,000.

JOHN E. FOGARTY INTERNATIONAL CENTER
For carrying out the activities at the John E. Fogarty International Center, \$15,193,000.

NATIONAL LIBRARY OF MEDICINE
For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, \$123,274,000.

OFFICE OF THE DIRECTOR
(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, \$219,474,000: *Provided*, That funding shall be available for the purchase of not to exceed five passenger motor vehicles for replacement only: *Provided further*, That the Director may direct up to 1 percent of the total amount made available in this Act to all National Institutes of Health appropriations to activities the Director may so designate: *Provided further*, That no such appropriation shall be increased or decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer.

OFFICE OF AIDS RESEARCH
(INCLUDING TRANSFER OF FUNDS)

For carrying out part D of title XXIII of the Public Health Service Act, \$1,337,606,000: *Provided*, That the Director of the Office of AIDS Research shall transfer from this appropriation the amounts necessary to carry out section 2353(d) of the Act.

BUILDINGS AND FACILITIES
For the study of, construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, \$114,370,000, to remain available until expended.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out the Public Health Service Act with respect to substance abuse and mental health services, section 612 of Public Law 100-77, as amended, and the Protection and Advocacy for Mentally Ill Individuals

Act of 1986, \$2,166,148,000: *Provided*, That no portion of amounts appropriated for the programs of the Department of Health and Human Services shall be available for obligation pursuant to section 571 of the Public Health Service Act, other than an amount of \$3,750,000 from amounts appropriated to carry out section 510 of that Act.

ASSISTANT SECRETARY FOR HEALTH
OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

(INCLUDING TRANSFER OF FUNDS)

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out titles III, XVII, XX and XXI of the Public Health Service Act, \$70,261,000, and, in addition, amounts received from Freedom of Information Act fees and reimbursable and interagency agreements shall be credited to this appropriation and shall remain available until expended: *Provided*, That \$2,000,000 of the amount appropriated in this paragraph shall be transferred to the Food and Drug Administration, Salaries and Expenses appropriation account.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

AGENCY FOR HEALTH CARE POLICY AND RESEARCH

HEALTH CARE POLICY AND RESEARCH
For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, \$134,624,000, together with not to exceed \$5,806,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by sections 1142 and 201(g) of the Social Security Act; in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided*, That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed \$13,202,000.

HEALTH CARE FINANCING ADMINISTRATION
GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act \$62,637,775,000, to remain available until expended.

For making, after May 31, 1995, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1995 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1996, \$27,047,717,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97-248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, \$37,546,758,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, and title XIII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, section 4360 of Public Law 101-508, and section 4005(e) of Public Law 100-203, not to exceed \$2,183,985,000, together with all funds collected in accordance with section 353 of the Public Health Service Act, the latter funds to remain available until expended; the \$2,183,985,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds: *Provided*, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to this appropriation.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, \$15,000,000 together with any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 1995, no commitments for direct loans or loan guarantees shall be made.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, \$25,094,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, \$527,874,000, to remain available until expended.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1996, \$180,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, \$21,237,101,000, to remain available until expended: *Provided*, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out title XVI of the Social Security Act for the first quarter of fiscal year 1996, \$7,060,000,000, to remain available until expended.

Mr. PORTER (during the reading). Mr. Chairman, I do not believe there are any amendments prior to page 35 through line 5. If there are, I would like for Members to stand and tell me at this point.

Mr. Chairman, in view of the fact no Member has stood, I ask unanimous consent that the remainder of the bill through page 35, line 5, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. Are there any points of order in that portion of the bill?

The Chair hears none.

Are there any amendments to that portion of the bill?

The Clerk will read the next paragraph.

The Clerk read as follows:

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than \$5,159,785,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act or as necessary to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 as such sections were in effect on January 1, 1993, from any one or all of the trust funds referred to therein: *Provided*, That reimbursement to the Trust Funds under this heading for administrative expenses to carry out sections 9704 and 9706 of the Internal Revenue Code of 1986 shall be made, with interest, not later than September 30, 1996.

AMENDMENTS OFFERED BY MR. SANTORUM

Mr. SANTORUM. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. SANTORUM:

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

LIMITATION ON ADMINISTRATIVE EXPENSES

a. On page 35, Line 8: Strike "\$5,159,785,000" and insert "\$5,127,785,000".

b. On page 35, Line 20: Strike "\$320,000,000" and insert "\$352,000,000".

Mr. SANTORUM. Mr. Chairman, I would like to thank the chairman of the subcommittee for agreeing to the unanimous consent request.

Mr. Chairman, last year this committee appropriated \$200 million to the Social Security Administration to address one of the most pressing problems that I hear about from my constituents back in my district, and that

is the backlog of Social Security disability cases. It is a very serious issue, where you have literally a backlog of a year or more to deal with a disability claim.

Unfortunately, as we found out at a hearing before the Committee on Ways and Means when the secretary of the Social Security Administration was there, we found out that the Social Security Administration spent \$32 million just this year on bonuses for Social Security Administration employees, when they were coming here asking for additional money to solve a backlog.

We thought, and I think the press and Members in the other body, found that to be an outrage, that they would be spending that amount of money on bonuses, when they were coming here, hat in hand, asking for more money to clear up backlogs in their own department.

The payment, these bonuses, were paid to a large number of Social Security employees, but the largest amount was paid to the new second-in-command at the Social Security Administration, some \$10,000 bonus for an employee who worked there for 2½ months. The employee has subsequently, under the pressure created by that move, given back the bonus. The average bonus to high senior executives in the Social Security Administration was over \$100,000.

What this amendment does is restore the \$32 million to the account which this Congress appropriated the \$200 million to, to clear up the disability backlog. So what this amendment simply does is take \$32 million out of the administration account of Social Security and put it in the disability account, so we can dramatically address this tremendous problem of backlog of Social Security disability claims, and send a message to the Social Security Administration that that kind of excess in compensation is not what the Congress is here to tolerate, and we want to see action done on disability claims, and action done quickly.

Mr. SMITH of Iowa. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, the gentleman is taking \$32 million out of a \$5 billion account. Obviously that is not going to hurt a lot. But he is also transferring it to a very good purpose. I understand his reasoning and what he said.

All I want to say is that if there is an aye vote, I do not intend to ask for a rollcall. Hopefully we can have a vote right away.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, back in the districts we had a lot of town hall meetings, and the No. 1 issue was this issue. I thank the chairman for his consideration. What I had to tell them was I did not have to worry about them telling me, because my mother, the second she

read it, got on the telephone and said what are you allowing them to do in Congress, son? And I think that this is a very good amendment, and I think it will be widely supported on both sides of the aisle.

I thank the gentleman for offering it. Mr. MFUME. Mr. Chairman, I rise today in strong opposition to the amendment offered by the gentleman from Pennsylvania.

As a Member of Congress who represents both people who work in the Social Security Administration as well as many who rely on the agency for their income, I can personally attest to the damage a decrease in funding of this magnitude would inflict. Like many Members, I am aware of the frustration and at times the pain that many of our older or disabled citizens feel when they have a claim or a problem with the Social Security Administration.

Furthermore, like many of my colleagues, I have tried to work with the Social Security Administration at all levels to reform the Administration to make it more responsive to needs of its clients, our constituents.

I must say, however, it is my experience that the last thing this agency needs to improve its service is a reduction in its administrative funding.

I understand that the purpose of this amendment is to strike the money that the agency would spend on employee bonuses. I must question the wisdom of this amendment, however, in light of the fact that since 1983 the number of Social Security employees has dropped approximately 20 percent, while workloads in recent years have grown 70 percent. Furthermore, according to the Bureau of Labor Statistics overall productivity at the Social Security Agency has increased by 18 percent over the last 5 years.

There are also a number of pending legislative initiatives that will only increase the demand on the Social Security Administration if enacted. Rather than taking resources away from the Administration, and further frustrating the attempts of its employees to provide quality service to our constituents and to prevent, deter, and terminate fraudulent claims, we should be rewarding and encouraging exemplary service.

Like other Americans, most Social Security employees are dedicated workers who are striving to do a good job.

We should not take actions here to impeded or discourage the employees of the Social Security Agency in their quest to help implement the programs that we, the Congress, mandate. Furthermore, we should not take the concerns of some Members about employee bonuses out on the disabled children, widows, and the elderly who depend on Social Security to survive. We should do all we can to help and encourage the Social Security Administration employees be as responsive and as helpful to our constituents as possible.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Pennsylvania [Mr. SANTORUM].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read. The Clerk read as follows:

In addition to funding already available under this heading, and subject to the same

terms and conditions, \$320,000,000, for disability caseload processing.

In addition to funding already available under this heading, and subject to the same terms and conditions, \$130,000,000, which shall remain available until expended, to invest in a state-of-the-art computing network, including related equipment and administrative expenses associated solely with this network, for the Social Security Administration and the State Disability Determination Services, may be expended from any or all of the trust funds as authorized by section 201(g)(1) of the Social Security Act.

ADMINISTRATION FOR CHILDREN AND FAMILIES

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A (other than section 402(g)(6)) and D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), \$12,761,788,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A (other than section 402(g)(6)) and D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1996, \$4,400,000,000, to remain available until expended.

JOB OPPORTUNITIES AND BASIC SKILLS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, \$1,300,000,000.

LOW INCOME HOME ENERGY ASSISTANCE

(INCLUDING RESCISSION)

Of the funds made available beginning on October 1, 1994 under this heading in Public Law 103-112, \$250,000,000 are hereby rescinded.

The funds remaining after said rescission shall be available for obligation through September 30, 1995.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, \$1,225,000,000, to be available for obligation in the period October 1, 1995 through September 30, 1996.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, an additional \$600,000,000: *Provided*, That all of the funds available under this paragraph are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), \$399,779,000: *Provided*, That funds appropriated pursuant to section 414(a) of the Immigration and Nationality Act under Public Law 102-394 for fiscal year 1993 shall be available for the costs of assistance provided and

other activities conducted in such year and in fiscal years 1994 and 1995.

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act, section 408 of Public Law 99-425, and the Stewart B. McKinney Homeless Assistance Act, \$465,714,000.

CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), \$934,656,000, which shall be available for obligation under the same statutory terms and conditions applicable in the prior fiscal year.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, \$2,800,000,000.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the State Dependent Care Development Grants Act, the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985, the Child Abuse Prevention and Treatment Act, chapters 1 and 2 of subtitle B of title III of the Anti-Drug Abuse Act of 1988, the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of Public Law 95-266 (adoption opportunities), the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, the Abandoned Infants Assistance Act of 1988, subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act, and part B of title IV and section 1110 of the Social Security Act, and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, section 204 of the Immigration Reform and Control Act of 1986, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, Public Law 100-77, and section 126 and titles IV and V of Public Law 100-485, \$4,408,775,000.

FAMILY PRESERVATION AND SUPPORT

For carrying out section 430 of the Social Security Act, \$150,000,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities, under title IV-E of the Social Security Act, \$3,440,871,000.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, and section 10404 of Public Law 101-239 (volunteer senior aides demonstration), \$869,823,000.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, \$89,500,000, together with \$31,008,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as

amended, \$63,585,000, together with not to exceed \$37,060,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, \$18,409,000 together with not to exceed \$3,874,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, \$14,632,000.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed \$37,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated under this Act may be used to implement section 399L(b) of the Public Health Service Act or section 1911(d) and section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103-43.

SEC. 204. None of the funds made available by this Act may be used to require States as a condition of receiving funding under the Child Abuse Prevention and Treatment Act to restrict, condition, or otherwise qualify a State's authority to determine (i) whether and under what circumstances a parent's decision to provide non-medical health care for a child may constitute negligent treatment or maltreatment, and (ii) the circumstances under which it is appropriate to order medical treatment for a child who is receiving non-medical health care.

SEC. 205. (a) Of the budgetary resources available to the Department of Health and Human Services (excluding the Food and Drug Administration and the Indian Health Service) during fiscal year 1995, \$37,125,000 are permanently canceled.

(b) The Secretary of Health and Human Services shall allocate the amount of budgetary resources canceled among the Department's accounts (excluding the Food and Drug Administration and the Indian Health Service) available for procurement and procurement-related expenses. Amounts available for procurement and procurement-related expenses in each such account shall be reduced by the amount allocated to such account.

(c) For the purposes of this section, the definition of "procurement" includes all stages of the process of acquiring property or services, beginning with the process of determining a need for a product or services and ending with contract completion and close-out, as specified in 41 U.S.C. 403(2).

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1995".

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION REFORM

For carrying out activities authorized by titles II and III of the Goals 2000: Educate America Act and titles II, III, and IV of the

School-to-Work Opportunities Act, \$528,400,000 of which \$503,870,000 shall become available on July 1, 1995, and remain available through September 30, 1996.

EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by title I of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act as passed the House of Representatives on March 24, 1994, and by section 418A of the Higher Education Act, \$7,245,655,000, of which \$7,212,093,000 shall become available on July 1, 1995 and shall remain available through September 30, 1996: *Provided*, That \$6,698,356,000 shall be available for grants to local education agencies, \$41,434,000 shall be available for capital expenses, \$102,024,000 shall be available for the Even Start program, \$305,475,000 shall be available for title I migrant education activities, \$37,244,000 shall be available for title I delinquent and high-risk youth education activities, \$27,560,000 shall be for program improvement activities, \$15,000,000 shall be for demonstration grants, and \$8,270,000 shall be for evaluation.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by the Improving America's Schools Act as passed the House of Representatives on March 24, 1994, \$728,000,000 of which \$40,000,000, to remain available until expended, shall be for payments for heavily impacted districts under section 8004(f).

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the portion of the bill through page 44, line 26, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the question of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. The Clerk will continue to read.

The Clerk read as follows:

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by titles II, III, IV, and V of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act as passed the House of Representatives on March 24, 1994; the Stewart B. McKinney Homeless Assistance Act; the Civil Rights Act of 1964; and title V of the Higher Education Act; \$1,424,513,000, of which \$1,158,695,000 shall become available on July 1, 1995, and remain available through September 30, 1996: *Provided*, That \$5,899,000 shall be for law related education under section 3702.

Mr. PORTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we are awaiting the arrival of the gentleman from Ohio [Mr. BOEHNER], who will be here momentarily. He has an amendment on native Hawaiians and the education program. The gentleman's amendment would terminate the program by cutting \$8.15 million, and the funding would not be redistributed.

Mr. Chairman, I support this amendment, and I supported a similar amendment that the gentleman from Ohio [Mr. BOEHNER] offered on the reauthorization bill. The President requested

termination of this program in his budget, Mr. Chairman, and it is a recommendation that we should listen to and we should adopt.

Mr. Chairman, the Department of Education is overburdened with small programs that require a great deal of administrative support. The President in his budget request strongly suggested that we eliminate 33 of those programs. If you sit down with the people at the Department of Education and talk with them, you know that they are very, very much overburdened with so many small programs that take a great deal of time and a large number of personnel to separately administer.

Mr. Chairman, that is why I believe the Boehner amendment should be adopted. We are asking all of the department's to do more with less, particularly FTE's. We ought to help them by consolidating or eliminating many of these small programs, and I think the Boehner amendment is one that deserves to be adopted.

Mr. Chairman, Hawaii already receives funding from other Federal education programs. For example, \$70 million in formula grants alone, which go to all States, go in part to Hawaii, and Hawaii also gets other funding set-asides and discretionary grants.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman cite specifically what he is objecting to?

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Mr. PORTER. Mr. Chairman, I am supporting the amendment that the gentleman from Ohio [Mr. BOEHNER] intends to offer.

Mr. ABERCROMBIE. Mr. Chairman, if the gentleman will continue to yield, would he cite specifically what the gentleman from Ohio [Mr. BOEHNER] is objecting to?

Mr. PORTER. Mr. Chairman, I will have to let the gentleman from Ohio do that. His amendment would terminate the Native Hawaiian Education Program by cutting \$8.15 million from it.

AMENDMENT OFFERED BY MR. BOEHNER

Mr. BOEHNER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BOEHNER: Page 45, line 9, strike "\$1,424,513,000" and insert "\$1,416,363,000".

Mr. SMITH of Iowa. Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto be limited to 40 minutes, 20 minutes on each side.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

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

This amendment seeks to strike \$8 million from this bill for the Native Hawaiian Education Program. This amount of money is in addition to what Hawaii gets under the bill.

Under the regular formula, they get \$70 million in funds which, under that formula, is like any other State. In addition, they get \$4.4 million in setasides from the Drug Free Schools Act, the Vocational Educational Act and Individuals With Disabilities Act. They are also eligible for discretionary and competitive grants and receive such sums as they may win in that process.

However, I guess my biggest concern about this is the fact that of the \$8 million, \$5 million goes to the Kamehameha school.

Now, this school was established through an estate left in the will of the Hawaiian Princess in the 19th century with a mandate to educate native Hawaiians. The estate owns property and investments all over Hawaii and, for that matter, in Las Vegas, Wisconsin and Michigan and elsewhere. It owns 8 percent of all Hawaiian real estate. We believe that the estate is worth some \$8 billion, and the endowment for this school is an amount of \$6 billion, more than the endowment for Yale University and Harvard University combined.

The endowment is run by five trustees. These five trustees, all former politicians, former speaker of the Hawaiian House, former president of the Hawaiian Senate, these trustees are paid \$860,000 each.

Let me explain this again. Five trustees over this estate; six billion of which is left to fund native Hawaiian programs. These five trustees are paid \$860,000 each.

The estate's income last year is estimated to be approximately \$177 million. Half of the money goes directly to fund the school. The other half is used to fund activities that are sponsored by the school.

I say to my colleagues that with the amount of money available to the school, certainly the Federal Government does not need to be putting up \$8 billion, more than half of which goes to fund this school.

It is kind of interesting that there is about \$4 million salaries paid each and every year just to the five trustees. The money we are paying them basically goes to pay their board of trustees. At a time when we are having the fiscal problems that we have, we should not be spending money in this matter.

Second, I would point out that there is no need for the Federal Government to fund this native Hawaiian program out of this bill. There is no need for the other setasides that are in other bills. The fact that the gentlewoman from Hawaii, who sits on the Committee on Education and Labor, has \$8 million in this bill should not come as any great surprise to Members. She does a very

good job on the committee. She works hard. She has worked hard enough to get the chairman and others to have this setaside included.

I say to my colleagues, we should not be doing this.

The last point I would make is this. President Clinton, when he sent his budget up to Congress, asked that this not be funded. I would also suggest that when the President submitted the re-authorization of the Elementary, Secondary Vocational Act, the President asked that this program not be funded.

I say to my colleagues, to send \$5 million to this school is a waste of our taxpayers' money. The \$8 million in this bill should not be spent, and I urge my colleagues to support the adoption of the amendment.

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

Mr. SMITH of Iowa. Mr. Chairman, I yield 5 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio. It saddens me that there is such a lack of understanding of the history and the reasons behind the efforts that have been made over the last 10 or 15 years to recognize the native Hawaiians in the State of Hawaii.

Congress has always been sympathetic to native Americans. Most of us have native Americans in our constituency. And over the years, the programs have been devised and developed and implemented to help Native Americans throughout this country.

Notwithstanding that the native Americans, perhaps some of them live on reservations and others live in the cities, over a billion dollars have been set aside to help educate and provide for the needs of native Americans throughout this country.

What has not been understood by Members on the other side in particular is that native Hawaiians are as much native Americans as any of the other individuals that have been heretofore included in the definition of a Native American.

The difficulty is that Members do not understand the history of my State and how it was overtaken 100 years ago by a group of 100 or so Marines, captured the Queen, imprisoned her in her own palace and took over the lands of the kingdom there and exploited it to the use and purposes of the American Government and of the American citizens who were there trying to build up their businesses.

After 100 years, we have come to the realization that the Federal Government has a basic responsibility to right this wrong that occurred 100 years ago. So the Congress has been drawn in to try to recognize this legal and moral obligation.

As a consequence, my predecessors have, bit by bit, tried to get special

programs enacted to help these native Hawaiians who are those in our community who are at the lowest end of the economic scale, who have the most difficulty in obtaining jobs, who have the most difficulty in acquiring homes and having a sense of prosperity in this great State of ours.

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One of the basic reasons is that when our delegate came here in 1920 and got the Congress to enact the Hawaiian Homestead Act, the Congress agreed and set aside 200,000 acres in an effort to try to bring some sort of justice to this tragedy that occurred to these people.

What happened was that the 200,000 acres that had been set aside for the native Hawaiians were in the remotest areas: no streets, no kind of communication, no job opportunities, no link with the economy. As a consequence, the native Hawaiian population has had a very difficult time.

It seems to us in Hawaii, Mr. Chairman, that the least we can do is to pay special recognition to this need, just as we have done to the native Americans in a whole variety of different pieces of legislation. That is precisely all that this is about.

As far as the charges that this fund has been allocated to the Kamehameha Schools, the Kamehameha Schools is the expert in terms of education for the native Hawaiians. There is no reason to look for other grantors to administer this program.

The \$5 million that have been set aside to Kamehameha Schools is split, \$3 million to Kamehameha Schools, and what they do is they go out to the community, they do not use it within their institution, they go out to the remotest areas, Waianae, Nanakuli, and they establish parent centers and preschools, and they move about trying to get these families together, the very essence of the things we talk about on the Committee on Education and Labor of having the families become involved in their children's progress. This is the essence of what the Kamehameha Schools program, known as KEEP, is all about.

Mr. Chairman, I support it wholeheartedly. I hope this Congress will agree that this is the least that we can do. It is a very modest amount, but it will go a long way to answering the charges that are now being made in my State that the Federal Government has completely left its obligations behind and refused to provide the assistance that is required.

Mr. Chairman, I ask my colleagues to defeat this amendment and to support the efforts of the Committee on Education and Labor that has authorized this program. Mr. Chairman, I commend the Committee on Appropriations for allowing this to proceed, and I hope the amendment will be defeated.

Mr. BOEHNER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. MILLER], a member of the Committee on Education and Labor.

Mr. MILLER of Florida. Mr. Chairman, at the beginning of the reauthorization process last year for elementary and secondary education, there was a bipartisan effort to target scarce Federal dollars on broad national education concerns, rather than on specific constituencies. The committee's expressed purpose was to eliminate or consolidate numerous categorical programs and use the savings to create better education opportunities for all students. Unfortunately, we did not achieve that goal during reauthorization. This, sadly, is also the case with this spending bill. The appropriations committee has reinstated funding for most of the programs recommended for termination by President Clinton, including moneys for the native Hawaiian program.

The President called this and a number of other programs in this bill unneeded, and duplicative. The Gore Commission on Reinventing Government specifically addressed the native Hawaiian program, stating, "This program duplicates other programs. The State of Hawaii already receives formula grants under such programs as chapter I that may be used for the education of eligible Hawaiians."

I agree with the President, the Vice President, and my colleague, the gentleman from Ohio [Mr. BOEHNER]. The House should eliminate the \$8.2 million in funding for the native Hawaiian program. The time has come to set priorities on Federal spending, and to eliminate special programs that benefit parochial interests at the expense of common educational goals. Native Hawaiians can receive money from the same pool of chapter I moneys that the rest of the States have access to.

My colleagues continue to make a lot of noise on the House floor about cutting spending, consolidating programs, and reducing the size of Government. But our actions run contrary to the tough rhetoric. We are passing legislation that is loaded with unnecessary, unauthorized and unwanted spending.

We've got to start eliminating and consolidating somewhere.

The President drew the line when he proposed zeroing out the Native Hawaiian Education Program. Support the President, and Vice President GORE, and vote in favor of the Boehner amendment.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Florida. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Chairman, would the gentleman cite specifically what he is opposed to?

Mr. MILLER of Florida. Mr. Chairman, I am opposed to the additional spending of a special categorical pro-

gram just for Hawaii. It should be treated as general funding across all the States, all the country.

Mr. ABERCROMBIE. Mr. Chairman, does the gentleman recognize that a trust relationship exists between the United States and the native Hawaiians?

Mr. MILLER of Florida. Yes, Mr. Chairman, but we have a trust relationship to our senior citizens, in my opinion.

Mr. ABERCROMBIE. If the gentleman will continue to yield, so the gentleman from Florida [Mr. MILLER] would say that the trust relationship should be violated with the senior citizens as well as with the native Hawaiians?

Mr. MILLER of Florida. No, Mr. Chairman, it should not be.

Mr. ABERCROMBIE. Only with the native Hawaiians?

Mr. MILLER of Florida. Mr. Chairman, we all have senior citizens, in Hawaii and in Florida and in New York. Why should native Hawaiians get any more than native Floridians? In fact, Mr. Chairman, we probably have more native Floridians than there are native Hawaiians.

Mr. ABERCROMBIE. If the gentleman will yield further, is it the position of the gentleman from Florida [Mr. MILLER] that the trust relationship exists only for the convenience of the gentleman?

The CHAIRMAN. The time of the gentleman has expired.

Mr. SMITH of Iowa. Mr. Chairman, I yield 5 minutes to the gentleman from Hawaii [Mr. ABERCROMBIE].

Mr. ABERCROMBIE. Mr. Chairman, on June 23, the gentleman from Ohio [Mr. BOEHNER] rose. He had a little bit different orientation. Then he also cited the President, except this time the President, when asked to have a cut of \$27 million, the gentleman from Ohio [Mr. BOEHNER] was up here begging for \$27 million.

The gentleman from Ohio comes here and asks us to cut out a program for little kids in Hawaii, but when it is for the coal companies in Ohio, he cannot wait to get down here and say, "Please give us the money. Do not listen to him."

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. ABERCROMBIE. When I get through making my point, Mr. Chairman, I will yield. The gentleman has had plenty of time to beat up on Hawaiians. I think the coal companies of Ohio can take their share. You can dish it out. Let's see how you can take it. I am just getting started.

Mr. BOEHNER. I am sure.

Mr. ABERCROMBIE. The Subcommittee on Interior of the Committee on Appropriations was asked to cut \$27 million. It was stated by the gentleman offering the amendment that a wide array of potential markets, from

coal, from electric power, industrial processes, has already been researched, some as early as the 1940's; an ongoing coal liquefaction research and development project. He asked that that money be stopped.

Another gentleman in support of that got up and said:

Let me point out that the Executive Office of the President has sent down a letter telling us they support the cut and moving money out for other programs.

A second gentleman got up and stated, in support of the amendment, "Today we simply ask the House to cut this appropriation by \$28 million and bring the appropriations in line with the President's request," but the gentleman from Ohio [Mr. BOEHNER] got up and said, "We are trying to cut funding in this Congress. We are trying to save money, but we also realize we have a responsibility in this Congress to make sure there is a proper investment in our country in areas where the private sector cannot do it alone."

Now all of a sudden, I discover that the gentleman has now taken up the Bishop Estate. The Bishop Estate manages to stay in existence because, while people from the mainland were robbing the Hawaiians of all their lands, some of it happened to be able to be saved by the Bishop Estate.

Now the Bishop Estate is not required to educate all of the children in Hawaii, but it does so. It does so.

Mr. BOEHNER. Mr. Chairman, will the gentleman yield?

Mr. ABERCROMBIE. Mr. Chairman, I will yield when I am finished. The gentleman has plenty of time. I will give him all the time he wants.

Then the gentleman says, "We are going to do this for our children, and their children, and the next generation." It is too bad the phrase "our children" does not include the children in Hawaii. It apparently includes the children of the gentleman in the area, in his jurisdiction.

The gentleman says, "In Ohio," and I am quoting, "we have a separate fund that has been developed that adds money" to the processes the gentleman is referring to. We have a separate fund, too, Mr. Chairman, at the Bishop Estate, and Kamehameha Schools, and the income from that estate is devoted to the education of Hawaiian children, and they have developed the expertise.

They have developed the programs that reach out into the rural and isolated areas of Hawaii so that these children can have the advantage of an education that can only be provided in a context that the Kamehameha Schools has developed and understood, and has offered to us.

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They merely administer these programs. The Bishop Estate does not get this money. Kamehameha Schools does not get this money. As the gentleman

well knows, in the legislation they are required to take no more than 7 percent total administrative expenses. I wonder how much administrative expenses is taken in the coal research that was in the amendment he asked us to pass?

Mr. Chairman, the fact is that I voted for that. The fact is that the gentlewoman from Hawaii [Mrs. MINK] voted for that, because we were convinced that this is a good thing to do, that while it is a specific industry, that people benefit in general throughout the Nation if the coal research is done. We agreed with the gentleman. But he comes back today and I ask him to accept the same logic that he presented to us, that it is to the benefit of all of the people of this country, that all of our children receive the best education that they can have in the context in which they find themselves.

Our problem today, Mr. Chairman, is there is the odor of mendacity in the room. The odor or mendacity is pervasive on this floor. It is characterized and given to deception and falsehood and that is what is taking place here today. If there was a consistency in this, I could see it, but there is not. Why should our children be picked on in Hawaii while the coal industry up in Ohio gets the benefit? How can the gentleman stand here today and try to take the money away from our kids when he was asking for an exception to be made for him last week on June 23?

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

Mr. Chairman, the gentleman from Hawaii came to this floor accusing me of duplicity because of the fact that I came to this floor last week and argued the difference between investment and spending. The coal research was an investment in this country, not only for our generation but our kids and our grandkids. The fact is there is a big difference between that investment in coal research and the extra money that is being spent for native Hawaiian children, extra money.

Let us not forget we are already talking about \$74 million that Hawaii gets in the regular formula program and the competitive grants that they get. We are talking about \$8 million extra, \$5 million of which is going to one school. We have already described the difference in how that school spends this money. The gentleman from Hawaii said that the Bishop Estate does not have to fund this program. I would remind the gentleman from Hawaii that the Bishop Estate is left clearly in the language of the estate to educate Native Hawaiian children. That is why \$177 million dollars that was earned on that estate, that \$6 billion endowment, went to fund this school last year.

The Federal Government should not be involved in this program anymore.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. CUNNINGHAM].

Mr. CUNNINGHAM. Mr. Chairman, let us bring a little bit of sanity to the debate. I heard that this amendment was going to affect little children. Even Robin Leach of the Rich and Famous would laugh. He would highlight this school that is going to receive \$8 million. He would highlight it on the Rich and Famous. The richest school in America and we are going to give them an additional \$8 million. What are we talking about? We are going to pay the board of trustees who they already receive, and these are all ex-politicians, we are going to pay them \$860,000 a year.

I would love to retire as an ex-politician in Hawaii with \$860,000 a year. The assets that they hold in Las Vegas or in Hawaii, over \$9 billion, more than any school in the entire United States. As a matter of fact, probably combined.

Mr. Chairman, we have an endowment of \$6 billion, more than Yale and Harvard or probably any 20 schools put together. Yet they want \$8 million because it is tradition, because we have violated their rights? We are going to hurt little children?

We cannot afford to give \$8 million. This is almost laughable.

Mrs. MINK of Hawaii. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I am happy to yield to the gentlewoman from Hawaii.

Mrs. MINK of Hawaii. Mr. Chairman, the gentleman is misstating the situation. The \$8 million does not go to Kamehameha Schools. The gentleman is correct. They are operated under a Bishop Estate that funds a couple of thousand students on their campus. These funds that we are appropriating are going to other children in deprived neighborhoods.

Mr. CUNNINGHAM. Reclaiming my time, Mr. Chairman, it is. But it is \$8 million going to special interests in Hawaii, \$8 million when they are already the richest, probably more than 20 schools put together, of all the United States. And they want an additional \$8 million. Plus they get money from the original formula.

This is ridiculous, Mr. Chairman. Let us support the gentleman's amendment.

Mr. BOEHNER. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. FAWELL], a member of the Committee on Education and Labor.

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I am flabbergasted. I cannot believe my ears, what I hear. There is an old saying in the law that if the facts are with you, you pound the facts, and if the law is with you, you pound the law, and if neither facts nor law are with you, you pound the table, or you just yell.

Mr. Chairman, this is absurd. The purpose for this special appropriation

is to educate children, native Hawaiians. Lo and behold it goes to an entity that has five trustees, and they are paid \$860,000 a year apiece? We multiply that by 5, that is \$4.3 million, and \$5 million of the \$8.2 million is going to that entity. It is barely enough to pay for the annual compensation of the trustees.

What defense do I hear? America owes something to the children of the native Hawaiians. Of course we do, I gather. I do not know the full history.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman yield?

Mr. FAWELL. No; I will not. I do not want to be yelled at anymore. I just want to say my say and sit down.

Mr. ABERCROMBIE. Will the gentleman yield on a factual matter?

Mr. FAWELL. I would like to continue on. My ears are still ringing.

Mr. Chairman, this is an educational matter. I do not think that anywhere in this country of ours, if we were serving one of the most degrading areas where children need help and so forth, and they set up an entity that is going to handle these funds and the entity is as rich and as endowed as this entity is, \$6 billion endowment, greater than Harvard University and Yale? I don't think they should be subsidized by the U.S. taxpayers.

I have in my notes here that these schools actually serve only 6.4 percent of the State's native Hawaiian population.

Mr. Chairman, the taxpayers are being asked to give \$5 million to one of the richest entities on the face of this Earth. The members of the board of this entity, the grantee of this Federal largesse, receive \$860,000 per person per year. Common Cause states that these trustee positions at the Kamehameha School are political plums for the State's Democrat Party. I've seen some awfully sick pork-spending passed by Congress. This has to be among the worst. It is absolutely absurd. We ought to just quietly say, "We, of course, cannot do this, it just is absurd."

Mr. SMITH of Iowa. Mr. Chairman, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, let us just get to the facts. The \$8.1 million in this program goes to the following programs:

First, native Hawaiian language immersion project; second, native Hawaiian family-based education centers; third, native Hawaiian higher education demonstration programs; fourth, native Hawaiian gifted and talented programs; and fifth, native Hawaiian special education programs.

Mr. Chairman, my Subcommittee on Native American Affairs also has jurisdiction over native Hawaiian affairs and we have a trust responsibility toward Native American children and native Hawaiian children. What we need to do is look at facts.

In 1983, a Department of Education report documented that native Hawaiians scored below all other groups in education testing and that this low achievement was directly related to their cultural situation. Native Hawaiian children score much higher when they are placed in education programs which incorporate their native cultures in their studies.

Mr. Chairman, again, statistics, the per capita income of native Hawaiians, \$5,341 a year, is 28 percent less than the State average in Hawaii. Another statistic, 15 percent of the native Hawaiian population in Hawaii is below the poverty level. We are not talking about elite children getting special privileges. We are talking about children in need, and we have a responsibility to fund these programs.

The rate of unemployment among native Hawaiians, 7 percent, exceeds unemployment rates of all other groups within the State except blacks which is 13 percent. The rate of unemployment among the 16- to 19-year-olds in the native Hawaiian population, 19 percent, is worse than any other age group, I repeat, worse than any other age group.

Native Hawaiians are overrepresented in the below-average range of test scores. This is a Department of Education study. The rate of college completion for native Hawaiians is 8 percent, significantly lower than the State average. Fifty-seven percent of all youth in correctional facilities in Hawaii are native Hawaiians.

There is no doubt these services, as well as others, are needed by the native Hawaiian community.

So I ask every Member that has native Americans in their congressional districts, in their States, to band together against this amendment and rise in strong support of these programs, of the gentlewoman from Hawaii [Mrs. MINK], the gentleman from Hawaii [Mr. ABERCROMBIE], of many native Hawaiians that are serving in the House of Representatives and the Senate.

This is not a good initiative. Let us look for cuts elsewhere, and I think the gentleman from Ohio [Mr. BOEHNER] has a good record of looking for cuts elsewhere, but not in this program.

We have a responsibility to fund these programs.

CHAPTER 6: SUMMARY STATISTICAL COMPARISONS

In Chapter 2 of this report, comparisons were made between native Hawaiians and national averages, national averages for other minority groups and other groups within the state of Hawaii. It was noted in that chapter that:

Although Native Hawaiians compare favorably to other minority groups nationally with regard to income, their mean and median per capita incomes are still just over 75 percent of the national average. Furthermore, the cost of living for a family of four with a low budget in Honolulu, where many Native Hawaiians reside, is 32 percent more

than it would be for the average urban area, nationally.

Native Hawaiians compare favorably to other minority groups nationally with regard to poverty level status. However, 15 percent of Native Hawaiians are below the poverty level, a statistic that is substantially higher than the national average of 9.6 percent.

Native Hawaiians compare favorably to other minority groups nationally with regard to employment status, and their unemployment rate of 6.9 percent is just slightly above the national average of 6.5 percent. However, within the 16 to 19-year-old age group, 19.3 percent of the Native Hawaiian population is unemployed, compared with 14.4 percent nationally. Although this percentage is much better than the 27.7 percent of blacks and 23.9 percent of the American Indians, Eskimos and Aleutians who are unemployed within this age group, it is worse than the 16.9 percent unemployment rate of Hispanics in this age group.

Academically, based on the results of the Stanford Achievement Test scores of sixth-, eighth-, and tenth-grade Native Hawaiians students, the proportion of Native Hawaiians whose scores are above average (i.e. at Stanines 7, 8, and 9) is smaller than the national average, and in the higher grades, a greater proportion of Native Hawaiians score below average than the national average.

The proportion of Native Hawaiians who are 25 years or older who are high school graduates is much higher than the proportion of high school graduates within other minority groups, and in fact slightly exceeds the national average, while the other minority groups, except for Hispanics, do as well or better than Native Hawaiians with regard to college attendance/completion.

Although Native Hawaiians are not, in most respects, as disadvantaged nationally as are blacks, Hispanics, or American Indians, Eskimos, or Aleutians, national comparisons provide only part of the picture. Most Native Hawaiians never leave Hawaii, and in fact many never even leave the island where they were born within the state of Hawaii, because of the geographic nature of the state. Therefore their relative advantage or disadvantage must also be viewed within the state context. From a state perspective, Native Hawaiians are among the most disadvantaged groups on the island:

The mean per capita income of the Japanese (\$9,410), Chinese (\$9,123) and whites (\$8,109) exceeds the state average of \$7,417 by 27 percent, 23 percent, and 9 percent respectively, while the per capita income of the Native Hawaiian (\$5,341) is 28 percent less than the state average. Furthermore, the per capita incomes of the Japanese, Chinese, and whites are 76 percent, 71 percent, and 39 percent more, respectively, than that of the Native Hawaiians. With respect to income, the Native Hawaiians per capita income is 5 percent higher than the mean per capita income for Filipinos (\$5,094) and 11 percent higher than the per capita income for blacks (\$4,805), who constitute a very small portion of the state population.

Fifteen percent of the Native Hawaiian population in Hawaii is below the poverty level. This compares with a 12 percent rate for blacks, a 9 percent rate for Filipinos, a 7 percent rate for whites, a 5 percent rate for Chinese, and a 3 percent rate for Japanese.

The rate of unemployment among Native Hawaiians (7 percent) exceeds unemployment rates of all other groups within the state except blacks (13 percent). The state average for unemployment is 5 percent. Unemploy-

ment rates for other groups include 6 percent for whites, 5 percent for Filipinos, and 3 percent each for Japanese and Chinese.

The rate of unemployment among the 16 to 19-year-olds in the Native Hawaiian population (19 percent) is worse than for any other age group within the Native Hawaiian population except for blacks, who have a 30 percent unemployment rate for this age group within Hawaii. For Native Hawaiians this is particularly significant because over 10 percent of the Native Hawaiian population is in this age group. The state average for unemployment for 16 to 19-year-olds is 12 percent. Unemployment rates for other groups include 14 percent for whites, 11 percent for Filipinos, and 7 percent for Chinese, and 6 percent for Japanese.

The enrollment rate of 3 to 4-year-old Native Hawaiians (37 percent) is near the enrollment rates for whites (42 percent), blacks (35 percent), and the state average (39 percent), but they are greatly surpassed by the enrollment rates for the Japanese (56 percent) and the Chinese (47 percent). In this regard the Filipinos have the lowest rate of enrollment for this age group (23 percent).

Native Hawaiians, Filipinos, and blacks are disproportionately overrepresented in the below-average range of test scores and underrepresented in the above-average range of test scores on the Stanford Achievement Test in sixth, eighth, and tenth grade compared to whites, Japanese, and Chinese within the state of Hawaii. After sixth grade, the proportion of blacks and Filipinos in both the below- and above-average ranges improves somewhat, compared to the proportion of Native Hawaiians.

The enrollment rates for 16- and 17-year-old Native Hawaiians (93 percent) is at the state average and is exceeded only by the Chinese (98 percent) and the Japanese (97 percent). White enrollment for this age group is 90 percent and black enrollment is 84 percent. However, all groups except Filipinos have a higher percent of high school graduates than the Native Hawaiians have. (It must be remembered, however, that even the Native Hawaiians have a graduation rate [68 percent] that exceeds the national average of 66 percent).

Despite the high enrollment rates of 16- and 17-year-old Native Hawaiians, enrollment rates among older Native Hawaiian age groups decline dramatically, compared to the Chinese and Japanese enrollments. Further, the median years of completion for native Hawaiians, which is 12.4 years, is lower than for any group except Filipinos, who have completed a median of 12.1 years of school. These facts may be indicative of difficulties in making the transition from the secondary to the postsecondary arena. This in turn has implications regarding the extent to which Native Hawaiians have received vocational education, which, in Hawaii, is given greater focus at the postsecondary level.

The rate of college completion for Native Hawaiians (8 percent) is significantly lower than the state average of 21 percent and of all other groups, including whites (28 percent), Chinese (28 percent), Japanese (20 percent), blacks (14 percent), and Filipinos (11 percent).

Fifty-seven percent of all youth in correctional facilities in Hawaii are Native Hawaiians.

Other indicators of need

During the site visits to the Vocational Education and Library set-aside programs, various people, including those who were part of state agencies, were asked whether

the services that were being provided by these set-aside programs had ever been provided elsewhere to Native Hawaiians. The answers were unanimous. All people who were interviewed indicated that the state had never earmarked any funds especially to meet the needs of Native Hawaiians for several reasons. First, little information had been available in the past and was only now being examined in any depth regarding the specific needs of Native Hawaiians as they pertained to library programs and vocational education. Second, because Hawaii consists of many minorities, it was considered inappropriate to focus on the needs of one group, to the exclusion of the rest. Third, the state had insufficient funds to address the needs of each group separately.

These people were also asked whether these services were actually needed. There was some difference of opinion as to the approach taken for providing services and as to the priority given to various needed services. Furthermore, there was some concern voiced about whether the state's secondary and postsecondary organizations would actually meet the commitments necessary to make the new vocational education program for Native Hawaiians successful. Nevertheless, there seemed to be no doubt that these services, as well as some others, were sorely needed by the Native Hawaiian community.

Alu Like and its programs

All groups, including those who could be competitors against Alu Like, indicated that Alu Like was the only organization that was ready to receive the governor's designation as the grantee for the library and vocational education set-aside programs. Alu Like had the confidence of the Native Hawaiian community and the experience in running large Federal grants. Some people did feel that other organizations could now compete for grants in certain areas, but that there still is no other organization capable of handling large grants.

The vocational education program has had substantial redirection. Nonetheless, many of the projects initiated under the first grant have been continued by other organizations or have been subsumed in modified form as part of the postsecondary initiative of the second grant. A few projects have been continued unmodified under the second grant.

Both set-aside programs have had some difficulties in starting up projects quickly, after the grant award, particularly with subcontractors. This problem, however, is an understandable and not uncommon problem in situations where the exact grant amount is unknown prior to the award. It is very difficult and in many instances unsound or unworkable practice to make commitments for staff, equipment, and space when the exact size of the grant is unknown. This is particularly true when the size of the grant could vary sufficiently to increase or decrease the number of projects that could be conducted or have a significant impact on the scope of work that could be done.

It should be recognized that meeting the needs of Native Hawaiians in the very rural areas, where needs may be greatest, may be more difficult and more costly to achieve. Furthermore, as several people pointed out, until the entire economic situation in some of these areas changes, no amount of vocational education will provide the needed jobs. Furthermore, everyone concurred that the first problem to be addressed in these rural areas is the provision of basic skills. Several people pointed out that although many jobs are becoming available on Kauai, a very rural island in the state which is un-

dergoing economic development, employees are being sought from outside the island and may even be imported from foreign sources, because the people on Kauai lack the basic skills needed for employment. Currently, the Native Hawaiian Vocational Education Program at Alu Like believes that providing only basic skills in such situations is beyond the permissible bounds of the program, although the Federal Program Officer indicated, in a telephone interview for this study, that such activities would be acceptable. This would seem to be an important point of clarification for future activities.

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

Let me say there is a great big difference here between native Americans and native Hawaiians with respect to the amount of money that is available.

Native Americans do not have an \$8 billion trust that is dedicated to preserve their culture, dedicated to the education of their young, as do the native Hawaiians with regard to the program that we are talking about.

I should also point out that the school that gets this \$5 million of the \$8 million only enrolls 6.4 percent of the eligible population in their schools; only one out of seven applicants who are eligible to attend the schools actually get in, where the school pays 90 percent of the tuition for the room and board and fees, the student only pays 10.

So let us make sure that we are comparing apples and apples here and not something different.

Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. Mr. Chairman, I rise in support of the Boehner amendment.

I am continually shocked and amazed by the pork barrelling that goes on in this body during appropriations season—but perhaps I should not be. Congress has always abused the appropriations process to get a million here and a million there for local parochial projects.

And it is no different this year. It may be June in the rest of America, but it is Christmas time in Washington.

A perfect example of this practice is the \$8 million being allocated by this bill to the Native Hawaiian Education Program. Before we use taxpayers' dollars for this program, we should carefully examine who benefits from these funds.

Of the \$8 million appropriated for this program, \$5 million goes to the Kamehameha School, which has an endowment larger than Harvard or Yale, yet serves only 6 percent of the native Hawaiian student population.

The five members who serve on the board of trustees enjoy salaries in excess of \$800,000 each year—a substantially higher salary than any other educator in the United States. That includes the president of Columbia University, the highest paid university

president, who makes in comparison only \$363,000 a year.

Perhaps these were some of the criteria used by President Clinton when he recommended eliminating this program in his budget proposal. It is certainly something that this body should consider in making its decision today.

For these reasons, I urge my colleagues to join me in supporting the Boehner amendment. This year, let us put Christmas off until after election day for a change.

Mr. SMITH of Iowa. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I rise today in strong opposition to the amendment offered by my colleague, the gentleman from Ohio [Mr. BOEHRNER].

Several weeks ago, I joined with my colleagues to form an Asian Pacific American Caucus.

That decision was driven, in no small part, by the increasing level of attacks being directed at legal immigrants in our community.

Although they have immigrated to this country lawfully, pay their taxes, and have played by the rules, some people are questioning whether or not they are really deserving of things like childhood vaccinations or education assistance.

So I find it somewhat ironic that, the first time we take to the floor as a caucus, it is to try to defeat an amendment aimed at cutting education services for the native Americans in our community.

I have to wonder just how long an American family must have lived in this country in order to be considered worthy of Federal benefits these days.

From other measures introduced in this House, it appears that 20 years is too little. From this amendment, one might conclude that anything over 300 years is too much.

Ultimately, Mr. Chairman, this is an issue of basic fairness. This Nation has long recognized that we have an obligation to native Americans, whose lands we have taken and whose societies we have undermined.

That commitment is no less important for the native peoples of the Pacific Islands than it is for native American communities on the mainland.

The gentleman's amendment would undermine a key component of our efforts to live up to a solemn commitment this Nation has made to the native Hawaiian people.

Over 100 years ago, the U.S. Government, in violation of the precepts of our Constitution, overthrew the established monarchy of the Hawaiian people.

The damage that was done to native Hawaiian society as a result of those events continues to this day.

The Native Hawaiian Education Act is a small attempt to help undo that

damage, and the appropriation would continue the commitment to the native Hawaiian people that we first made in 1921, with the passage of the Hawaiian Homes Commission Act.

The Nation has a duty, and an obligation, to provide some level of social and economic assistance to the native Hawaiian people.

We recognized that commitment long ago. We must not abandon it today. I urge my colleagues to join me in voting to defeat the Boehner amendment.

Mr. BOEHNER. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING], the ranking member of the Committee on Education and Labor.

Mr. GOODLING. Mr. Chairman, certainly I would not rise to cross the gentlewoman from Hawaii, so I will merely read or merely play the role of the administration this evening; I am speaking for the administration.

The administration zero-funded the program for 1995, citing the fact the five programs authorized under this program are provided exclusively to Hawaiian natives despite the availability of similar assistance for eligible Hawaiian natives under such formula grant programs as Title I, Even Start, and Special Education.

Second, the administration cited the fact these programs are funded largely through noncompetitive awards to organizations and agencies named in the authorizing statute. The same organizations can apply for competitive grants.

The 1990 Census said there were 37,134 native Hawaiian children ages 5 to 17; of the \$8 million that are sent out, \$5 million go to the Kamehameha Schools who also receive the big money from the trust fund, and you have heard all about that.

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But of the \$8 million appropriated for the program for the current fiscal year, \$5 million goes to Kamehameha Schools. Let me then give some statistics about the rest of the people.

There are a total of 540,000 other native American students. They are served through the BIA schools and public schools. Approximately 85 to 90 percent are educated in public schools and another 50,000 attend BIA schools.

Approximately 65 percent of native American students complete high school. Of native Hawaiians, 79.5 percent are high school graduates, which is higher than the national average of 75.2 percent. Twelve percent of native Hawaiians have incomes below the poverty line, while 27 percent of Indians, Eskimos, and Aleutians have incomes below the poverty level. Nationally, 10 percent of the population have incomes below the poverty level.

The median family income of native Hawaiians is \$37,269, and for native Americans it is \$21,750. The national

average is \$35,335. These are the statistics provided by the administration.

Mr. SMITH of Iowa. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, I rise in strong opposition to the Boehner amendment. It seems to me that we can spend a tremendous amount of time on an issue that really should not even be discussed here. We have an obligation: In 1921 the Hawaiian Home Commission Act created a land trust, and we started at that time to try to right some of the wrongs that we have seen in this country. The native Hawaiians are in fact native Americans, and the U.S. Government has a trust responsibility for native Hawaiians similar to that held for native American tribes and Alaskan Natives.

The elimination of the Native Hawaiian Act would be an egregious violation of historic, traditional legislative precedent in the manner in which this trust relationship began between the United States Government and the native Hawaiian people.

When we sit here and discuss \$8 million, we can sit around and talk about a B-2 bomber sometimes, and we do not really spend so much time. As a matter of fact, during this entire debate I have not heard a B-2 bomber discussed for the past 2 or 3 months; the B-2 bomber currently runs about \$850 million, \$900 million. If we cut the number, it will be about a billion dollars apiece. Here we are talking about an \$8 million program where people are going out into the rural parts of Hawaii, where people are going out and starting preschool programs, where people are going out and dealing with family values and getting people to be motivated. We have not heard one word about the Sea Wolf submarine, \$2.8 billion, in order to go under the polar cap to surprise the Soviet Union, who are broke. But we are still building the Sea Wolf, \$2.8 billion. What about our anti-aircraft carriers? They are \$5 billion each. You know what? It costs a billion dollars to operate it during the year.

So, even if we decide we do not need it anymore, we have got a billion dollars, not a million dollars, a billion dollars that it costs to run it. But here we are discussing an \$8 million project. You know, some of the people on the other side make midgets into giants and make giants into midgets. They are really magicians.

I think that we need to stop beating, for political purposes, an item that makes sense, but never talk out about the waste and the fraud that we see in other programs.

So, I urge my colleagues to put aside this business of beating up on people and let us defeat this amendment.

Mr. BOEHNER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman and my colleagues, this is not being mean-spirited, it is

not about picking on native Hawaiians. It is about what is right. It is about spending \$8 million of taxpayer money, giving it to a program where \$5 million goes to a school for those programs which has a \$6 billion endowment, that has a board of trustees consisting of 5 former politicians who get paid \$860,000 a year. That is an embarrassment.

If the estate used the money that was left to fund native Hawaiian programs the way it was intended, certainly this money would not be needed. But I would argue that \$8 million of our money going into this program is not a necessary expense for the Federal taxpayers today.

So, I say to my colleagues, as the gentleman from Pennsylvania [Mr. GOODLING] pointed out, the averages, these native Hawaiians have above-average scores, above-average dropout rates.

Mr. Chairman, this is a good amendment, and I urge adoption.

Mr. SMITH of Iowa. I yield myself the balance of the time.

Mr. Chairman, this program has been carried in this bill for at least a dozen years. It is very strongly supported on the Senate side. I think it would be optimistic to think we could take this money out here, use it somewhere else, and not have to put it back in by the time we get back from the Senate. That is just too optimistic. It will not work.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. I thank the gentleman for yielding to me.

Very quickly, Mr. Chairman, and briefly for my colleagues so we get it straight before we go to a vote: This money is not going to the Bishop estate, it is going to learning-disabled kids, it is going to gifted and talented children, this is going to specific programs that are not otherwise funded. The reason we have to come back here year after year is because we have not been recognized in great measure because of actions taken in the previous administrations and on the other side in the native American legislation.

We would not have to do it and have to defend our people if we received the basic justice that all of you expect for your constituents. I ask for justice for us, justice for every American, and justice for native Hawaiians, and I ask for a "no" vote.

Mr. ENGEL. Mr. Chairman, I rise in strong opposition to Representative BOEHNER's amendment to strike fiscal year 1995 funding for the Native Hawaiian Education Act.

As a member of the House Education and Labor Subcommittee on Elementary, Secondary, and Vocational Education, I can attest to the importance of continuing the educational projects which are supported through this Federal program. The U.S. Government has a historical and legal obligation to the native Hawaiian people since its participation in the

overthrow of the Hawaiian monarchy over 100 years ago. Cutting this program now would be both unprincipled and short sighted.

In addition, as a Representative from the New York metropolitan area, I understand that the great diversity of our Nation's people requires special consideration when formulating Federal policy. Regional concerns and differences including geography, cultural and economic factors, as well as other special considerations deserve the Federal Government acknowledgment and support.

The Native Hawaiian Education Act, established in 1988, attempts to achieve just that. The act contains a variety of programs, specifically designed to meet the unique needs of native Hawaiian students that other Federal programs fail to address. Family-based education programs, higher education provisions, programs for gifted and talented students, special education programs, and native language programs contained in the act are highly successful and deserve our support.

I urge my colleagues to support the continued funding of the Native Hawaiian Education Act and oppose the Boehner amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. BOEHNER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BOEHNER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 188, noes 233, not voting 18, as follows:

[Roll No. 295]

AYES—188

Allard	Dornan	Istook
Andrews (NJ)	Dreier	Johnson (CT)
Archer	Duncan	Johnson (SD)
Armey	Dunn	Johnson, Sam
Bachus (AL)	Ehlers	Kasich
Baker (CA)	Emerson	Kim
Baker (LA)	Everett	Kingston
Balleger	Ewing	Klug
Barrett (NE)	Fawell	Knollenberg
Barrett (WI)	Fingerhut	Kolbe
Bartlett	Fowler	Kyl
Barton	Franks (CT)	LaFalce
Bentley	Franks (NJ)	Lambert
Bereuter	Galleghy	Lazio
Bilirakis	Gallo	Leach
Billey	Gekas	Levy
Blute	Gilchrest	Lewis (CA)
Boehner	Gillmor	Lewis (FL)
Bonilla	Gingrich	Lewis (KY)
Bunning	Goodlatte	Lightfoot
Burton	Goodling	Linder
Buyer	Goss	Livingston
Callahan	Grams	Lucas
Calvert	Gunderson	Machtley
Camp	Hancock	Mann
Canady	Hansen	Manzullo
Castle	Hastert	Margolies-
Clinger	Hayes	Mezvinsky
Coble	Hefley	McCandless
Collins (GA)	Herger	McCollum
Combust	Hoagland	McCrery
Cooper	Hobson	McCurdy
Coppersmith	Hoekstra	McDade
Costello	Hoke	McHugh
Cox	Holden	McInnis
Crane	Houghton	McKeon
Crapo	Huffington	McMillan
Cunningham	Hunter	Meyers
Deal	Hutchinson	Mica
DeLay	Hyde	Miller (FL)
Dickey	Inglis	Minge
Doolittle	Inhofe	Molinari

Moorhead	Rogers	Spence
Morella	Rohrabacher	Stearns
Myers	Ros-Lehtinen	Strickland
Nussle	Roth	Stump
Orton	Roukema	Sundquist
Oxley	Royce	Swett
Packard	Santorum	Talent
Paxon	Saxton	Tauzin
Penny	Schaefer	Taylor (NC)
Petri	Schiff	Thomas (CA)
Porter	Sensenbrenner	Thomas (WY)
Portman	Shaw	Thurman
Poshard	Shays	Torkildsen
Price (NC)	Shuster	Torricelli
Pryce (OH)	Skeen	Upton
Quillen	Smith (MI)	Vucanovich
Quinn	Smith (NJ)	Walker
Ramstad	Smith (OR)	Walsh
Ravenel	Smith (TX)	Wolf
Regula	Snowe	Zeliff
Roberts	Solomon	Zimmer

NOES—233

Abercrombie	Furse	Moran
Ackerman	Gejdenson	Murphy
Andrews (ME)	Gephardt	Murtha
Andrews (TX)	Geren	Nadler
Applegate	Gibbons	Neal (MA)
Bacchus (FL)	Gilman	Neal (NC)
Baessler	Glickman	Norton (DC)
Barca	Gonzalez	Oberstar
Barcia	Gordon	Obey
Barlow	Grandy	Olver
Becerra	Green	Ortiz
Beilenson	Gutierrez	Pallone
Berman	Hall (OH)	Parker
Bevill	Hall (TX)	Pastor
Bilbray	Hamburg	Payne (NJ)
Bishop	Hamilton	Payne (VA)
Blackwell	Hastings	Pelosi
Boehler	Hefner	Peterson (FL)
Bonior	Hinchey	Peterson (MN)
Borski	Hochbrueckner	Pickett
Boucher	Horn	Pickle
Brewster	Hughes	Pomeroy
Brooks	Hutto	Rahall
Browder	Inslie	Rangel
Brown (CA)	Jacobs	Reed
Brown (FL)	Jefferson	Reynolds
Brown (OH)	Johnson (GA)	Richardson
Bryant	Johnson, E. B.	Roemer
Byrne	Johnston	Romero-Barcelo
Cantwell	Kanjorski	(PR)
Cardin	Kaptur	Rose
Clay	Kennedy	Rostenkowski
Clayton	Kennelly	Rowland
Clement	Kildee	Royal-Allard
Clyburn	King	Rush
Coleman	Klecicka	Sabo
Collins (IL)	Klein	Sanders
Collins (MI)	Klink	Sangmeister
Condit	Kopetski	Sarpalius
Conyers	Kreidler	Sawyer
Coyne	Lancaster	Schenk
Cramer	Lantos	Schroeder
Danner	LaRocco	Schumer
Darden	Laughlin	Scott
de la Garza	Lehman	Serrano
de Lugo (VI)	Levin	Sharp
DeLauro	Lewis (GA)	Shepherd
Dellums	Lipinski	Sisisky
Derrick	Lloyd	Skaggs
Deutsch	Long	Skelton
Diaz-Balart	Lowey	Slatery
Dicks	Maloney	Slaughter
Dingell	Manton	Smith (IA)
Dixon	Markey	Spratt
Dooley	Martinez	Stark
Durbin	Matsui	Stenholm
Edwards (CA)	Mazzoli	Stokes
Edwards (TX)	McCloskey	Studds
Engel	McDermott	Stupak
English	McHale	Swift
Eshoo	McKinney	Synar
Evans	McNulty	Tanner
Farr	Meehan	Taylor (MS)
Fazio	Meek	Tejeda
Fields (LA)	Menendez	Thompson
Filner	Mfume	Thorton
Flake	Miller (CA)	Torres
Foglietta	Mineta	Towns
Ford (MI)	Mink	Trafficant
Ford (TN)	Moakley	Tucker
Frank (MA)	Mollohan	Underwood (GU)
Frost	Montgomery	Unsoeld

Valentine	Watt	Woolsey
Velazquez	Waxman	Wyden
Vento	Whelan	Wynn
Visclosky	Williams	Yates
Volkmer	Wilson	Young (AK)
Waters	Wise	Young (FL)

NOT VOTING—18

Bateman	Fish	Pombo
Carr	Greenwood	Ridge
Chapman	Harman	Washington
DeFazio	Hilliard	Weldon
Faleomavaega	Hoyer	Whitten
(AS)	Michel	
Fields (TX)	Owens	

□ 2026

Mr. HALL of Texas changed his vote from "aye" to "no."

Mr. ALLARD changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4606), making appropriations for the Department of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. FLAKE. Mr. Speaker, due to personal business I was unavoidably detained in returning to the Capitol today. As a result, Mr. Speaker, I missed two votes for consideration under suspension of the rules on H.R. 3626 and H.R. 3636 to provide full competition in the telecommunications industry. Had I been present, I would have voted "yes" for both bills respectively. I believe that these measures provide opportunities for all Americans to benefit from a level playing field in the telecommunications industry. New communications and information technologies have brought America to a crossroads. Hence, as legislators, we must seize this enormous potential to bring the benefits of the "Information Age" to all Americans by enlarging the telecommunications markets.

Mr. Speaker, had I been present, I would have voted against the Porter amendment to H.R. 4606.

DETERMINATION OF PROCEDURE FOR FURTHER CONSIDERATION OF H.R. 4606, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that when the

Committee of the Whole resumes consideration of the bill, H.R. 4606, it may proceed according to the following order:

First, the bill shall be considered as read through page 56, line 11, and open for amendment from page 45, line 13, through page 56, line 11.

Second, after disposition of any points of order against the pending portion of the bill, and before the consideration of any other amendment, the following amendments to that portion of the bill that shall be in order only in the following sequence: by Mr. MICA of Florida; by Mr. BAKER of California; by Mr. CRANE of Illinois; and by Mr. GRAMS of Minnesota.

Third, debate on each of the foregoing amendments (and any amendments thereto) shall be limited to 20 minutes equally divided and controlled by the proponent and an opponent.

Fourth, the Chairman of the Committee of the Whole may postpone until after disposition of the Grams amendment a request for a recorded vote on any of the foregoing amendments.

Fifth, the Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall be not less than 15 minutes.

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

Mr. PORTER. Mr. Speaker, reserving the right to object, I do not intend to do so. I just want to ask the gentleman one question, if I may.

Is the gentleman aware of any amendments to any of these four amendments?

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, I am not aware of any amendments to any of the four amendments.

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

The SPEAKER. Is there objection to the request of the gentleman from Iowa?

There was no objection.

DEPARTMENTS OF LABOR,
HEALTH AND HUMAN SERVICES,
AND EDUCATION, AND RELATED
AGENCIES APPROPRIATIONS
ACT, 1995

Mr. SMITH of Iowa. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4606) making appropriations for the Depart-

ments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Iowa [Mr. SMITH].

The motion was agreed to.

□ 2031

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4606, with Mr. SHARP in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose earlier today, the amendment offered by the gentleman from Ohio [Mr. BOEHNER] had been disposed of.

Pursuant to the order of the House of today, the bill is considered read through page 56, line 11 and open for amendment from page 45, line 13, through page 56, line 11.

The text of the bill, through page 56, line 11, is as follows:

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, bilingual and immigrant education activities authorized by title VII of the Elementary and Secondary Education Act as amended by the Improving America's Schools Act, as passed the House of Representatives on March 24, 1994 and by title IV of the Carl D. Perkins Vocational and Applied Technology Education Act, \$247,572,000, of which \$25,180,000 shall be for training activities under part C, and \$50,000,000 shall be for the immigrant education program.

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act, \$3,106,634,000, of which \$2,858,973,000 shall become available for obligation on July 1, 1995, and shall remain available through September 30, 1996.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Technology-Related Assistance for Individuals with Disabilities Act, and the Helen Keller National Center Act, as amended, \$2,355,600,000.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), \$6,406,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), \$41,462,000, of which \$333,000 for the endowment program as authorized under section 207 and not to exceed \$192,000 for construction shall remain available until expended.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C.

4301 et seq.), \$76,742,000, of which \$991,000 shall be for the endowment program as authorized under section 207 and shall be available until expended.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, and the Stewart B. McKinney Homeless Assistance Act, \$1,456,383,000, of which \$1,453,464,000 shall become available on July 1, 1995 and shall remain available through September 30, 1996: *Provided*, That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act, \$400,000 of the amount available for Tech-Prep shall be for evaluation of the program and \$25,767,000 shall be for national programs under title IV, including \$7,851,000 for research, of which \$6,000,000 shall be for the National Center for Research on Vocational Education; \$13,000,000 for demonstrations, notwithstanding section 411(b); and \$4,916,000 for data systems: *Provided further*, That of the amounts made available under the Adult Education Act, \$5,400,000 shall be for national programs under sections 382 and 383, and \$4,869,000 shall be for the National Institute for Literacy under section 384.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3, and 4 of part A, and parts C, E, and H of title IV of the Higher Education Act of 1965, as amended, including, notwithstanding section 401(a)(1), not to exceed 3,930,000 Pell Grant recipients in award year 1994-1995, \$7,825,417,000, which shall remain available through September 30, 1996, and of which \$54,322,000 shall be for State Student Incentive Grants under subpart 4 of part A.

The maximum Pell Grant for which a student shall be eligible during award year 1995-1996 shall be \$2,340: *Provided*, That notwithstanding section 401(g) of the Act, as amended, if the Secretary determines, prior to publication of the payment schedule for award year 1995-1996, that the \$6,247,180,000 included within this appropriation for Pell Grant awards for award year 1995-1996, and any funds available from the FY 1994 appropriation for Pell Grant awards, are insufficient to satisfy fully all such awards for which students are eligible, as calculated under section 401(b) of the Act, the amount paid for each such award shall be reduced by either a fixed or variable percentage, or by a fixed dollar amount, as determined in accordance with a schedule of reductions established by the Secretary for this purpose.

FEDERAL FAMILY EDUCATION LOAN PROGRAM ACCOUNT

For Federal administrative expenses to carry out guaranteed student loans authorized by title IV, part B, of the Higher Education Act, as amended, \$62,191,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles I, II, without regard to section 241(d), III, IV, including chapter 2 of subpart 2 of part A, V, VI, VII, IX, part A, and subpart 1 of part B of title X, XI, without regard to section 1151, and XV of the Higher Education Act of 1965, as amended; the Mutual Educational and Cultural Exchange Act of 1961; title VI of the Excellence in Mathematics, Science and Engineering Education Act of 1990; and Public Law 102-423; \$954,686,000, of which \$8,248,000 for endowment activities under section 331 of part C of title III and \$17,512,000 for interest subsidies under title VII of the Higher Education Act,

as amended, and \$4,000,000 for Public Law 102-423 shall remain available until expended, and \$1,500,000 of the amount provided herein for title III shall be available for an evaluation of the title III programs.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), \$206,463,000, of which \$7,910,000, to remain available until expended, shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98-480) and \$6,000,000, to remain available until expended, shall be for construction.

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For the costs of direct loans, as authorized by title VII, part C, of the Higher Education Act, as amended, \$134,000: *Provided*, That such costs, including costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974 and that these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed \$8,000,000: *Provided further*, That obligated balances of these appropriations will remain available until expended, notwithstanding the provisions of 31 U.S.C. 1552(a), as amended by Public Law 101-510. In addition, for administrative expenses to carry out the existing direct loan program of college housing and academic facilities loans entered into pursuant to title VII, part C, of the Higher Education Act, as amended, \$1,022,000.

COLLEGE HOUSING LOANS

Pursuant to title VII, part C of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING, PROGRAM ACCOUNT

The total amount of bonds insured pursuant to section 724 of title VII, part B of the Higher Education Act shall not exceed \$357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title VII, part B of the Higher Education Act, as amended, \$347,000.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out activities authorized by the Educational Research, Development, Dissemination, and Improvement Act; the Elementary and Secondary Education Act of 1965 and the Education Council Act, as

amended by the Improving America's Schools Act as passed the House of Representatives on March 24, 1994; the National Education Statistics Act of 1994 as passed the House of Representatives on March 24, 1994; and the General Education Provisions Act, \$318,775,000: *Provided*, That \$39,320,000 shall be for regional laboratories, including rural initiatives; \$4,463,000 shall be for civics education activities; \$14,480,000 shall be for the National Diffusion Network; \$34,424,000 shall be for Eisenhower professional development Federal activities; and \$20,000,000 shall be for Federal leadership activities in education technology.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, III, IV, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and section 222 of the Higher Education Act, \$114,996,000.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of two passenger motor vehicles, \$359,358,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, \$58,325,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, \$29,199,000.

GENERAL PROVISIONS

SEC. 301. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

SEC. 302. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 303. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the

school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 304. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1995".

TITLE IV—RELATED AGENCIES

ARMED FORCES RETIREMENT HOME

For expenses necessary for the Armed Forces Retirement Home to operate and maintain the United States Soldiers' and Airmen's Home and the United States Naval Home, to be paid from funds available in the Armed Forces Retirement Home Trust Fund, \$59,816,000, of which \$2,906,000 shall remain available until expended for construction and renovation of the physical plants at the United States Soldiers' and Airmen's Home and the United States Naval Home: *Provided*, That this appropriation shall not be available for the payment of hospitalization of members of the Soldiers' and Airmen's Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, \$205,771,000.

CORPORATION FOR PUBLIC BROADCASTING (RESCISSION)

Of the funds made available under this heading in Public Law 102-394, \$20,100,000 are hereby rescinded.

The CHAIRMAN. Are there any points of order to this section of the bill?

Pursuant to the order of the House of today, the following amendments shall be considered to that portion of the bill in the following order: by Mr. MICA of Florida; by Mr. BAKER of California; by Mr. CRANE of Illinois; and by Mr. GRAMS of Minnesota.

Debate on each of the amendments and any amendments thereto shall be 20 minutes, equally divided and controlled by the proponent and an opponent of the amendment.

The Chairman of the Committee of the Whole may postpone until after disposition of the Grams amendment a request for a recorded vote on any of the foregoing amendments.

The Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another

vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of question shall be not less than 15 minutes.

AMENDMENT OFFERED BY MR. MICA

Mr. MICA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MICA:

BILINGUAL AND IMMIGRANT EDUCATION

Page 45, line 21, strike "\$247,572,000" and insert "\$272,572,000" and line 22, strike "\$50,000,000" and insert "\$75,000,000".

The CHAIRMAN. The gentleman from Florida [Mr. MICA] will be recognized for 10 minutes in support of his amendment, and a Member opposed will be recognized for 10 minutes in opposition.

The Chair recognizes the gentleman from Florida [Mr. MICA].

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

I rise tonight to ask this body to recognize a crisis that faces our country today. That crisis is the crisis of unfunded Federal immigration policy.

I am asking this body to do something about the burden forced upon our States and local governments. Let me make very clear at the outset that this amendment does not cut the low energy assistance program. While I had originally intended to propose a cut in that program, I reserved the right to offer that amendment at a future time. Instead, tonight at this time I am offering an amendment which will simply reimburse the States for funds they have spent educating children of illegal immigrants.

I am not advocating a corresponding cut. This amendment makes no cuts, let me make that perfectly clear, because I believe the immigration situation at the State level has achieved the status of an emergency.

My request and amendment are within the existing budget authority. I know that the unfunded mandate of educating illegal immigrants is a concern of many of my colleagues. But we sat late into the evening last night and we discussed this issue. Here we have an opportunity to do something about this issue. And we are not going to cut any other program, I am not proposing at this time to eliminate any program. What I am going to do tonight is to say that we, as a Congress, must address a problem.

I know that this question of illegal immigrants and their education, the education of their children and reimbursing the States for expenses is of interest to all of my colleagues here in the House, because I have with me a letter signed by almost 100 of my colleagues which was sent to the honorable chairman from Iowa stating their desire to see the Emergency Immigration Education Act fully funded.

My amendment would do exactly that. My amendment simply increases

the appropriation for the immigration account by \$25 million. Although I have not cut other funds in the bill, I offer this amendment on the grounds that the immigration situation which we find ourselves in today in this country is an emergency. We cannot continue to expect the States to fund a failed national immigration policy.

The Federal Government has responded to natural disasters, including hurricanes, floods, and earthquakes. Today our schools are being jolted by a disastrous Federal immigration policy, and they are drowning financially.

Three States have sued the Federal Government for refunds and others will follow. Is this the way we conduct the business of our Nation and our States, by States suing the Federal Government to be responsive? I say "no." Is this the manner in which we assist our local governments, as they cope with the disaster created here in Washington? Let us look at the cost of educating illegal immigrants.

The total cost to the United States for educating illegal immigrants, the children of illegal aliens in this country, is \$4.25 billion per year. In my State of Florida, it costs an average of \$4,000 to educate one immigrant child. And do my colleagues know that the State is only reimbursed somewhere between \$35 and \$40 per student?

I urge the adoption of this amendment. Give our States the opportunity to get a little bit back for the money that they have spent on taking care of a national disaster created at the national level by national policy.

Again, this does not cut any program. This does not eliminate any program. What it does is, it says we have a problem. We must address the problem, and this Congress is willing to step forward and see that we reimburse our States for a small fraction of the expense that they have incurred in the education of these illegal aliens.

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

□ 2040

The CHAIRMAN. Who rises in opposition to the amendment of the gentleman from Florida [Mr. MICA]?

Mr. SMITH of Iowa. Mr. Chairman, I have no speakers. I would ask if the gentleman from Florida [Mr. MICA] has other speakers.

Mr. MICA. Mr. Chairman, I do not.

Mr. SMITH of Iowa. Mr. Chairman, I reserve the right to close.

The CHAIRMAN. The Chair would indicate that we are under the time limit, and neither the gentleman from Iowa [Mr. SMITH] nor the gentleman from Florida [Mr. MICA] needs to make a speech. We may proceed to a vote.

Mr. MICA. Mr. Chairman, if the gentleman has no comment at this time, but would like to close, then I would like to reclaim my time.

May I inquire, Mr. Chairman, as to how much time I have remaining?

The CHAIRMAN. The gentleman from Florida [Mr. MICA] has 5½ minutes remaining.

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

Mr. Chairman, again I make this appeal, because I come from a State that has been badly impacted by our national immigration policy. We have borne the brunt of immigration, Mr. Chairman, not in relation to, say, a State like California. California is foremost. The cost of illegal immigration to California is absolutely staggering, the amount of money that that State spends on education. Florida only spends a fraction of it in educating illegal aliens. That State is tremendously impacted by this.

Mr. Chairman, I would expect every member of the California delegation to come down here and vote for this amendment, to say that this is a Federal obligation, that we must assume a Federal obligation here, even though it means expanding slightly the outlay of money for this particular program.

However, Mr. Chairman, it does not exceed, and I might add, Mr. Chairman, this does not exceed the budget authority given to this committee. What it does is, it says we have a problem. California has been ravaged by the problem.

We are ending up in the State of Florida, and I know in California, New York, other States, where we are increasing our local property taxes. Many of these local governments have caps, such as in Florida, where they cannot raise them any more. The cost of education, the cost to local government of handling this illegal immigration problem, has reached its cap in many of these jurisdictions.

Mr. Chairman, this is one of the greatest increases in costs to local government that costs this country, whether it is California, whether it is New York, whether it is Pennsylvania, New Jersey. Again, Mr. Chairman, if we do not address the problem at the Federal level, we end up passing this on to the States, which we have done, requiring the States, in fact, to pick up the tab, the local taxpayer to pick up the tab.

Mr. Chairman, here we have an opportunity to stand up and be counted tonight. We are not going to do away with anything, Mr. Chairman, again, with any program that may be of any particular interest to anyone in this body or the House of Representatives in any way.

What we are doing, Mr. Chairman, is we are making a commitment that we in fact recognize there is a problem, we are willing to fund that problem, we are willing to address that here, we are willing to assist our States in meeting the obligation that started here at the Federal level, whether it was at the White House or whether it was in this body. We have an obligation to the

local governments, to our school districts, again, to meet this need.

Mr. Chairman, I ask everyone of the Members to look at their States, look at the impact of illegal immigration. We have more illegal immigrants in the State of California than there are in 16 States in the Union. Is this fair, that we allow our States to absorb this burden and not address this problem?

We did not address this problem last night when it came to cutting funds for international peacekeeping forces. We did not address this in any other sections of legislation that came before us. This is the opportunity that we have, again, without cutting anything, without upsetting anyone's apple cart, to say that we do in fact admit that we have an obligation and the obligation is above the funding level provided in this piece of legislation.

Mr. Chairman, this is a small amount, but it is a meaningful amount. At the proper time I am going to call for a recorded vote on this. I do want the Members to come down here. They should go back to their local districts, back to their school boards, back to their States, and look those people in the eye and say, "We had an opportunity to fund this. It was well within the budget constraints provided by the Committee on the Budget in Congress, but I did not meet my obligation. I did not take care of the obligation and the tragedy that was set forth here by our national policy." That is the policy of illegal immigration.

Mr. Chairman, I know that there are many other issues of importance, but I come from one State that has been severely impacted by this. I ask the Members' assistance in this matter, and also to assist the other States, California, New York, New Jersey, Pennsylvania, Illinois, Ohio, and the list goes on and on, States that have been severely impacted by failed Federal policy.

Mr. Chairman, with that, I submit this amendment for the Members' consideration, and intend to call a vote for it and ask for Members' support.

The CHAIRMAN. The gentleman from Iowa [Mr. SMITH] is recognized for 10 minutes in opposition to the amendment.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am compelled to oppose the amendment because there is no offset. I know the House rules say the limitation is on BA, rather than outlays. In the Senate the rule is that the bill cannot exceed the outlay ceiling. When we go through the House with these bills, we have to be within the outlays or else we are going to be in trouble in conference.

What the gentleman does is add \$25 million but there is no offset.

Mr. Chairman, we have in this bill many, many places where we could add

money for budget authority, and there are many places we would like to. For example, in the fund for handling disability claims, Mr. Chairman, I would like to add some money there, but there are no outlays to go with it, so we have not done that.

Mr. Chairman, I just think Members ought to vote against this on the basis that we are supposed to present a bill here, and we have presented a bill that is within the outlays in our 602(b), and to vote for this amendment means that we exceed the 602(b).

Mr. MICA. Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MICA].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. MICA. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from Florida [Mr. MICA] will be postponed.

It is now in order to consider the amendment to be offered by the gentleman from California [Mr. BAKER].

AMENDMENT OFFERED BY MR. BAKER OF CALIFORNIA

Mr. BAKER of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAKER of California: On page 52, line 9, strike "\$114,996,000" and insert in lieu thereof "\$115,996,000".

The CHAIRMAN. The gentleman from California [Mr. BAKER] is recognized for 10 minutes, and a Member opposed to the amendment will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. BAKER].

Mr. BAKER of California. Mr. Chairman, it was my intention to stand up here and point out the growth of the administration's budget in the Department of Education. Last year they had to suffer over at the Department of Education with a growth in their administrative budget of only 14 percent. That is when 1 million Californians were out of work and most corporations were cutting their overhead drastically.

Mr. Chairman, I wanted to take \$2 million out of this growth in administrative overhead and give it to the library budget, which Members will see next to the administrative overhead budget. The library budget has been cut some \$37 million. In other words, we are reinventing government this year. Bureaucracy is in, libraries are out.

As a symbolic gesture, and also as a much-needed addition to the libraries, I wanted to take \$2 million from ad-

ministration and put it into libraries. Unfortunately, the gentleman from Illinois [Mr. PORTER] got here first, and he took, with a successful vote earlier this evening, \$7 million from administration, which is this year's growth rate, and took it for the community health facilities and others, so the amendment as it is now drafted would take \$1 million of that \$7 million in savings and apply it under the cap, there is \$1 million left under the cap, and give it to the public libraries.

Mr. Chairman, I am waiting for a signal from the chairman to see if that is within the budget cap of CBO. We will find out later.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BAKER of California. I am happy to yield to the gentleman from Iowa [Mr. SMITH], the chairman of the committee, for his opinion on the amendment as drafted.

Mr. SMITH of Iowa. Mr. Chairman, we do not have any scoring from CBO, and we have found out the hard way that we do not dare move without a scoring from CBO. We came up at one point, while we were trying to put this bill together, with a \$247 million difference between what we thought the scores would be and what they thought it should be, but we have to go by their scoring. We do not have any way to know what the scoring is.

Mr. BAKER of California. Mr. Chairman, would the gentleman allow me to go to the back of the line? There are two other amendments affecting this title of the Education Act, and I could wait until the end, when we hear from CBO.

Mr. SMITH of Iowa. If the gentleman will yield further, we will not hear from CBO for 2 or 3 or 4 days. We are not going to hear from CBO tonight. That is not going to do any good.

Mr. BAKER of California. Mr. Chairman, even if we roll these over, we are not going to roll them over for 3 or 4 days. We will have to vote.

Mr. Chairman, let me just continue, then. It is very important we stop the downward slide of library funding. Libraries are important.

□ 2050

Libraries are important to every community. They are important to our children. To take \$1 million and increase that \$37 million slide does not seem to be unrealistic.

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

The CHAIRMAN. Does the gentleman from Iowa [Mr. SMITH] rise in opposition to the amendment?

Mr. SMITH of Iowa. Yes, Mr. Chairman, I oppose the amendment.

The CHAIRMAN. The gentleman from Iowa [Mr. SMITH] is recognized for 10 minutes.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, to start with, we do not have an offset. In the second place, public library services are being treated like the average in the bill. It is 96.5 percent of current services.

There are numerous programs, I will bet there are 200 programs in the bill that would like to be better than average in the bill. There are more than 500 programs in the bill. If you reach in and just pick out any one program, we can make a good argument for why it ought to be treated better than others in the bill. But we had to put together a bill that on an average is 96.5 percent of current services. We cannot just reach in and pick out one of 200 and not give consideration to the others. It is not a good program, but we cannot increase this without an offset, and even if we had an offset, I do not think that libraries ought to be treated differently than a couple of hundred other programs that are in the bill.

Mr. BAKER of California. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from California.

Mr. BAKER of California. On this chart, I am showing what we are doing to libraries this year. It is not that I want to treat this program any better. I think it has been treated in this process very shabbily.

Mr. SMITH of Iowa. I do not know about the graph. We are giving it 96.5 percent of current services and that is as good as most programs in this bill. I do not know about the gentleman's graph, but that is the fact. It is getting 96.5 percent of current services in the bill.

Mr. BAKER of California. If the gentleman will continue to yield, if we adopted my amendment, then, to give the administrative overhead 96 percent of their current services, we would have my \$2 million.

Mr. SMITH of Iowa. Without anything in the bill, the gentleman is getting 96.5 percent of current services.

Mr. BAKER of California. The gentleman is correct.

Mr. SMITH of Iowa. Yes.

Mr. BAKER of California. If I applied that same standard to the administrative overhead of the Department of Education, I would have more than \$2 million to give to libraries.

Would the gentleman find that acceptable, because we are holding the administration at an equal.

Mr. SMITH of Iowa. We are putting out a very delicate bill. Every time we increase something, we had to decrease something below 96.5 percent. This was one of 200 or 300 programs that we thought were average programs, that ought not be treated different than others. It is a matter of fiscal responsibility. Either we abide by the caps and on an average have 96.5 percent of current services or we do not. We cannot just pick out all the programs and say they are over average. This was

one of them we did not put more money than the average in for. It is a delicate balance and anybody can make a good argument for 200 or 300 programs in here.

Mr. BAKER of California. If the gentleman will continue to yield, I am making an argument that we cut the libraries \$37 million. I do not think that is 96 percent. I am also arguing that the budget of the administrative overhead of the Department of Education is increasing.

Mr. Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Chairman, I rise in strong support of the amendment offered by my colleague, the gentleman from California. The Federal Government spends about \$146 million on library programs. This is .01 percent of the Federal budget and going down. So while the Department of Education budget skyrockets, Federal support for local libraries continues to fall. Federal support for local libraries works out to about 57 cents per person in the United States, or about the cost of a small ballpoint pen or a cup of coffee. For that very small investment, we generate enormous returns in providing for our constituents a wealth of information resources.

Mr. Chairman, this amendment is very simple. It would shift a very, very small amount of money, of dollars, from the Department of Education bureaucracy to public library service. It seems to me to be a very simple amendment, a very simple choice. It is books or bureaucrats, it is a simple choice, and for me that choice means books.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I had pointed out to me why the chart is in gross error. The chart refers to the total amount for libraries including construction and college libraries. The chart refers to the total amount for libraries including construction. The amount for services is only \$745,000 below 1994, out of \$82 million, so it is 3.5 percent below current services.

Mr. Chairman, I would also point out that the money the libraries get from this account is probably less than 3 percent of the amount local libraries operate on. If they cannot squeeze a little out of that 3 percent, they are in pretty bad shape. It just should not be treated different than several hundred other programs in the bill.

Mr. BAKER of California. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. LINDER].

Mr. LINDER. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I would like to point out that this is a very, very small amendment to do a very, very impor-

tant thing. For 15 or 20 years, we have been bleeding our libraries and enhancing our bureaucracy. In the last 20 years, we have increased our spending per pupil in real terms by double. We have increased our spending in terms of the bureaucracy by triple. One third of every dollar we spend on education now goes to the classroom. There have been hundreds of stories or thousands of stories of people who have learned what they have learned in the libraries. I, in fact, have six or seven books by Eric Hoffer, a longshoreman from California, who quit school in the fifth grade and went to the libraries and became a famous author and a writer because of what he learned.

Mr. Chairman, we are bleeding our libraries. We are taking away from the children and giving to the bureaucrats and the owners of the National Education Association, the lobby, the money we should be putting back into education.

Until 1952, our schools were run at the local level by parents and teachers. Then when the teachers lobby took over, we started declining. We had increasing SAT scores in every single year until 1964, which just happens to coincide with the year that the Federal Government got involved in elementary and secondary education, and we have declined in every year since except for a small blip in 1985 or 1986, and it has been going down since.

Mr. Chairman, this is not a major overhaul of education. This is a small effort to say the kids are more important than the bureaucrats. The effort we put into their opportunity to learn is more important than we put into offices and the chandeliers of the bureaucrats.

Let us vote just this one time for the kids.

Mr. BAKER of California. Mr. Chairman, I yield myself the balance of my time to close debate.

Mr. Chairman, we have just voted to give \$8 million to a program that has a \$9 billion trust fund. We say it is OK to cut the libraries because we are getting rid of the construction program. Apparently no one needs a new library this year. Yet we allowed last year the bureaucracy in the Department of Education to grow by 14 percent and this year by another \$7 billion, although that has been recently cut back.

It is not too much to ask for \$1 million for the libraries. Libraries in California run the best literacy programs available, their one-on-one personal introduction to reading and writing to people of all ages who somehow got through school and are still illiterate. Libraries are where we introduce young children to the adventure of history and of mathematics and of science through reading. I ask for an aye vote for \$1 million for the library. I ask that Members reduce the bureaucracy an equal amount. There is room under the

cap and some day CBO will come out of the cave and tell us that it is all right to restore some of the money to public libraries.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, the gentleman talks about taking money out of salaries and expenses for the Education Department. But we did that on the amendment that passed earlier. We did that on the big amendment that passed for community health centers. The money is already gone. How many times can we spend it? We cannot take the \$1 million that we already voted to spend and spend it again on libraries. There is no offset for this. That is the fact of the matter.

Mr. Chairman, I have to oppose the amendment, although it is not a big amendment.

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

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. BAKER].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BAKER of California. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from California [Mr. BAKER] will be postponed.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would announce for the benefit of Members that we are proceeding more rapidly than the time allowed. Therefore, if rollcall votes are ordered, they could come earlier than many Members are expecting.

It is now in order to consider the amendment to be offered by the gentleman from Illinois [Mr. CRANE].

□ 2100

AMENDMENTS OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I have an en bloc amendment and I would like to make a unanimous consent request that it might be made in order in lieu of the original amendment I submitted. If I may, I would like to indicate briefly to the Chairman what it involves, and then I would be happy to yield.

The CHAIRMAN. The Clerk will report the amendments, and then the gentleman may propound his unanimous consent request.

The Clerk read as follows:

Amendments offered by Mr. CRANE:

Page 56, Line 11, strike "\$20,100,000" and insert "\$292,640,000".

Page 35, Line 20, strike "\$320,000,000" and insert "\$520,000,000".

Mr. CRANE. Mr. Chairman, I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to consideration of the amendments en bloc?

Mr. SMITH of Iowa. Mr. Chairman, I have to object. I am sorry. But I cannot permit reaching back into the bill, or others will want to do the same thing.

I have to object.

The CHAIRMAN. Objection is heard.

Mr. CRANE. Mr. Chairman, I will submit my original amendment.

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE:

Page 56, line 11, strike "\$20,100,000" and insert "\$292,640,000".

The CHAIRMAN. Pursuant to the rule, the gentleman from Illinois will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

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

Mr. Chairman, I am deeply regretful that my unanimous-consent request was rejected, because I think it is something everyone in this Chamber can relate to, and that was to divert \$200 million of the projected \$274 million savings under my amendment to processing Social Security disability claims.

The average processing time has grown by more than a month between 1990 and 1993, on average from 87 days to currently roughly 128 days. And disability claims will have grown by 75 percent from 1990 to 1995. That means over 1 million backlog cases, and we have constituents communicating with each and every one of us on the importance of trying to deal with this aggravated problem which is spiraling out of control.

But so be it. What my amendment, Mr. Chairman, will do is have the effect of saving the taxpayers an enormous amount of money.

In 1967, it had only been 22 years since the Chicago Cubs won a pennant. In 1967 Woodstock was still just a farm. In 1967 man had not yet set foot on the Moon, and in 1967 Congress created the Corporation for Public Broadcasting.

Back in 1967, there were only three television networks, and Congress perceived the need for more diversity in broadcasting. The CPB was designed to meet that need, giving consumers access to quality programming that was not commercially viable. Without a doubt, many fine programs have been broadcast because of public television.

But it is no longer 1967. The choices of consumers are no longer limited to the three networks, and we no longer need the CPB.

Television has added a fourth network, and hundreds of independent stations have sprouted up throughout the country. More importantly, the popularity of cable television has given consumers literally, in some cases, hundreds of choices. From CNN to ESPN to the Home Shopping Club, consumers

have adequate choices today without a Federal subsidy.

In fact, most Americans can even choose among public television stations, as 58 percent receive more than one public station.

Despite the wide spectrum of programming now available, Congress continues to give more and more money to the CPB. We now appropriate more than 5 times the amount dedicated to public broadcasting 20 years ago. Even with such exponential growth, Federal funding for the CPB still accounts for only about 15 percent of the total funding for public broadcasting, and the fact of the matter is that even without any Federal funding, the Corporation would still have a budget of more than \$1.5 billion.

In the years since 1967, the CPB has become increasingly less dependent upon Government funds. Through grants from foundations, corporate sponsors, and individual donations, the CPB has built a financial base strong enough to survive and, indeed, thrive without Federal funding. For example, the Children's Television Workshop which produces the most visible PBS program, Sesame Street, has \$58 million invested in stocks and bonds, enough to keep even Big Bird's feeder full for many years.

In short, eliminating Federal funding will not force the cancellation of any programming and will not dissolve the Corporation for Public Broadcasting. What it will do is save the American taxpayers more than a quarter of a billion dollars. With so much diversity, we no longer need the CPB, and with our growing budget deficit, we can no longer afford it.

I hope my colleagues will vote for fiscal responsibility and will vote for my amendment to rescind Federal funding for the Corporation for Public Broadcasting.

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

Mr. SMITH of Iowa. Mr. Chairman, I yield 7 minutes to the gentleman from Vermont [Mr. SANDERS].

Mr. SANDERS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois [Mr. CRANE] and urge Members to support the bill as reported by the Committee on Appropriations.

I do want to say, however, that unless there are some substantial changes in Public Broadcasting and its relationship to the working people of America, my vote and my position might be very different next year.

Mr. Chairman, one of the great dangers in America today, and something that frightens me and many other Americans very much is the growing concentration of ownership in the mass media. Fewer and fewer and larger and

larger corporations increasingly control what we see on television, what we hear on the radio, and what we read in the newspapers and magazines.

The noted journalist and author Ben Bagdikian has written in his book "The Media Monopoly" that by the turn of the century a handful of huge multinational corporations will not only control what we see and hear in America but in fact will be controlling what much of the world sees, hears, and reads. That is a very dangerous trend.

Mr. Chairman, it is not an accident that the Rush Limbaughs, the Pat Buchanans, and the G. Gordon Liddy dominate commercial radio talk shows. Their views reflect the interests of the corporations which own those radio networks. It is also not an accident that on commercial radio and television there is very little serious discussion about the enormous problems facing the working people and the poor of this Nation.

The average working family in America is in trouble. They are under stress. They are hurting. But that reality is not reflected in the corporately controlled media.

Yes, we do have round-the-clock analysis of the O.J. Simpson case and the Menendez brothers saga and the Bobbitt family adventures and the Tonya Harding and Nancy Kerrigan adventure. Yes, we have in-depth analyses of why the Houston Rockets were able to defeat the New York Knickerbockers and why the Washington Redskins did not do so well this last session. Yes, the airwaves are filled with violence and blood and 30-second commercials which are having an extremely negative impact on the cognitive abilities of the young kids of America.

But somehow, just somehow there is virtually no programming which explains to the American people why the standard of living of American workers has gone from 1st place in the world 20 years ago to 13th place today. Somehow we do not have programming which deals with that. Somehow there is very little discussion or portrayal on television about the growing gap between the rich and the poor in America.

I guess we do not have time on TV for that or about the fact that the wealthiest 1 percent of our population owns more wealth than the bottom 90 percent, or about how multinational corporations are moving to the Third World and are hiring workers at 15 to 20 cents an hour while they are throwing American workers out on the street. I guess that is just not interesting enough to put on our TV airways.

Should we be surprised that General Electric's NBC or the corporations that own the other networks do not focus very much on these issues? Well, I am not surprised, and I think the average American is not surprised.

Mr. Chairman, the reason that Public Broadcasting was established and why taxpayers are contributing to Public Television and Radio is that it is supposed to offer an alternative point of view to that offered by the corporately owned networks. It is supposed to give a voice to those who have no voice. It is supposed to be able to deal with controversy without being afraid of offending corporate sponsors. That is the reason that it exists.

□ 2110

It is supposed to take on the entrenched special interests because it is funded by the ordinary people of this country, the people who are not wealthy, the people who are not powerful, the people who do not own ABC, CBS, or NBC. In other words, radical thought that it may be, public television is supposed to represent the interests of the public.

I know that is a radical thought, but that is the way it is supposed to be.

Sadly, despite what its original mandate was, despite the fact that there is some excellent programming on public television, some very fine children's programming on public television, despite all of that, very few people can argue that public television has fulfilled its original mandate. In fact, year after year it appears that public television is more and more coming to resemble commercial television. Mr. Chairman, I do not object that there are three regularly scheduled business shows on PBS. I do not object that there are three regularly scheduled shows—Wall Street Week, the Nightly Business Report, and Adam Smith's Money World. I have no problem with those programs. I do have a problem, however, that there is not one regularly scheduled program on the PBS which focuses on the needs and the problems of the working people of America. If there are three regularly scheduled business shows, why is there not at least one, just one, regularly scheduled show reflecting the interests of working people and organized labor?

I do not object that three weekly public affairs shows on the PBS stations are hosted by individuals who have been associated with the National Review, a leading right-wing magazine; William Buckley's Firing Line, John McLaughlin's McLaughlin Group, and McLaughlin's One on One. I do not object to these shows. But I do object that there is not one weekly PBS show which is hosted by a journalist from a labor or a progressive point of view.

Our side also has articulate, well-informed journalists and commentators who are capable of presenting interesting and informative television, and that point of view has a right to be heard.

Mr. Speaker, it seems to me that the Corporation for Public Broadcasting is at a crossroads. If it wants to resemble

commercial television, Mr. CRANE has a point. If it wants to resemble commercial television, if it wants to go out and hunt for more and more corporate money, then maybe we should say once and for all that it should become a private entity which competes in the marketplace with the corporate media. Mr. CRANE does have a point. But I do not think that is what it should be. It seems to me that in a time when more and more of the media is controlled by big money, it is imperative that we really do have a public broadcasting system which deals with the real problems facing the working people of America.

Tonight I will oppose Mr. CRANE's amendment. I hope PBS changes, or next year I will not.

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

Mr. Chairman, as an unblushing socialist, I understand my colleague's commitment to the concept of Government ownership and/or control of the means of production and distribution. And for that reason I have respect for his argument from his perspective.

However, I would argue that we are not in that kind of an economic situation. I would deny further that labor has not had an opportunity to be heard through the media. We have had radio stations in Chicago that were initially founded by the labor unions, controlled by the labor unions. That opportunity always exists, and it exists today and it is not something that requires Government intervention to resolve that kind of problem.

Censorship, I would say "no" to the gentleman about. In effect, what he is calling for is Government censorship of program content.

Free enterprise is our answer to these problems and free enterprise provides a free field with no favors. And anyone who wants to join in the game is able to join in the game.

In addition to that, I would remind the gentleman that 22 cents of every dollar right now to the Corporation for Public Broadcasting comes from individual donations, not from the corporate giants. And the number of private subscribers and the total amount of donations has risen very rapidly in the last few years.

Sesame Street, I might remind the gentleman also, grosses more from merchandising than does the National Hockey League. And that is one of those children's programs very widely watched and very popular.

So I think the gentleman has made an impassioned plea, but I think the gentleman is off base in terms of the approach to dealing with the problem before us today. That is not, as I think is implied in his remarks, calling for a major increase in the Government component of this Corporation for Public Broadcasting, because only 15 percent of that is now Government. The

rest is all outside of Government, in the hands of a variety of people. And to be sure, some of them may be corporations.

But the fact is we do not need this in a climate when we have literally hundreds and hundreds of channel outlets. At the time this was founded, with only three networks, there was a case that could be made for an alternative voice. But I think that has long since passed. For that reason, I would ask Members to support our amendment.

Mr. ROHRBACHER. Mr. Chairman, will the gentleman yield?

Mr. CRANE. Yes, I yield to the gentleman.

Mr. ROHRBACHER. I thank the gentleman for yielding to me.

Mr. Chairman, I was listening to this debate, and I do not know what planet some of my colleagues are living on, sometimes, when I hear them talking about the bias of the media in different areas.

The news media, from a conservative point of view, is way over on the left. We are always complaining about this. I will acknowledge that my friends on the other side of the aisle may indeed think that the media does not reflect their point of view either. But that is the whole point: In a free enterprise system people can listen to what they want to listen to, and they can turn off the dial. But if you have a socialist approach, which I know that my colleague really appreciates, the socialist approach believes it will be inherently fairer, but the fact is people are forced to pay for programming that they do not support. Whether they listen to it or not, they are going to pay for it.

The fact is the free enterprise system today provides us with more alternatives. We have video disks, we have videotapes, we have satellites, we have radio, we have FM, we have AM, we have tapes to listen to when we go in our car. We have got newspapers, we have got magazines, we have information and entertainment coming out of our ears. There is absolutely no reason why, when we have other needs, for us to be taxing money away from our people to subsidize entertainment and information.

I agree totally with my colleague from Illinois [Mr. CRANE] that the time is past, if there ever was a need, that this need now can be handled totally by the private sector. And neither one of us should then complain, because we can say if we do not support what is on the air, we just turn the channel, as compared to the Corporation for Public Broadcasting and other socialist approaches when you have to pay for what you disagree with.

Mr. CRANE. Mr. Chairman, I reserve the balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. I thank the gentleman from Iowa for yielding this time to me.

Mr. Chairman, let me make some very simple points. Notwithstanding the fact that we have had a cable revolution in this country over the last 20 years, we should all be cognizant of the fact that 40 percent of all Americans do not subscribe to cable. Most of them, because they cannot afford cable.

Sixty percent of all Americans who come from families of \$15,000 income or less do not subscribe to cable.

As the 1980's introduced an era where the chairman of the Federal Communications Commission said that a television set was nothing more than a toaster with pictures, we saw more and more of the commercial broadcasters do away with their children's television programming. From a peak of 11 hours a day in 1980 to a low of 2 hours per week in 1993, we saw the commercial broadcasters walk away from children's television.

On children's television, on an average, on public broadcasting, an average day, there are 6 to 10 hours of children's television programming. For the 60 percent of the children of the families with incomes under \$15,000 a year, that is their only access to quality broadcasting. They do not have cable. It is unrealistic to expect that their families can afford all of these wonderful discretionary video opportunities that are out there in the marketplace, as wonderful as they may be for middle-class Americans, they are not affordable for working-class and poor America.

□ 2120

Public broadcasting is the only alternative for those children. It is the only way that working class, and blue collar, and poor families can have access to quality programming on a daily basis. Let us not confuse this issue at all. The reason public broadcasting is there is to ensure that all Americans have access to quality programming, not just those who can afford to pay for it, which is what the cable revolution is all about.

Mr. CRANE. Mr. Chairman, I yield myself the balance of my time.

Let me say in response to what we have heard that the Lyons Group, which produces Barney and Friends, makes an estimated \$50 million just from licensing Barney products, yet has received some \$2.5 million from public broadcasting to produce episodes of the show.

PBS continues to subsidize Sesame Street to the tune of \$6 million annually. The Children's Television Workshop, which produces the program, nets about \$100 million a year in related product sales, with \$40 million alone coming from Sesame Street Magazine's 4.5 million readers.

"This money-machine feature of public television is a far cry from the original assumption that a public system was needed to give access to pro-

gramming with no commercial appeal," said Laurence Jarvik, director of the Center for the Study of Popular Culture.

I think it is important to recognize that we are not talking about eliminating public broadcasting networks. It is not going to be eliminated; a far cry from that. It is so commercially viable, is my point, that we no longer need its existence, and the public contribution is down to only 15 percent of the total. They are not going to fold up and go home. They are making out like gangbusters, and they will continue to produce, and they will continue to direct their programming toward that audience which has guaranteed them such an enormous success.

So, Mr. Chairman, I think we are not talking on the same wave length, and the point I would reiterate before closing out is the one my colleague from California made, and that is:

Why, when you have a viable entity in a competitive market must you involuntarily force American overburdened taxpayers to pay for it?

Mr. Chairman, I urge the adoption of my amendment.

Mr. SMITH of Iowa. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Illinois [Mr. CRANE].

Mr. Chairman, I am not sure there was any other program that I heard more from in the mail, from colleagues, than public broadcasting. They want more money. They did not want even to go back to 96.5 percent of current services because it was advanced funded. It is just not realistic, I do not think, for us to take out of the bill the remaining amount of money we have got in here, which is 96.5 percent of what was funded last year. I just think that this is a program that is very much supported all over the country, and I have to oppose the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. CRANE].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. CRANE. Mr. Chairman, on that I demand the yeas and nays, and I understand that the vote will be put off until the next amendment is completed.

The CHAIRMAN. Pursuant to the order of the House of today, further proceedings on the amendment offered by the gentleman from Illinois [Mr. CRANE] will be postponed.

It is now in order to consider the amendment to be offered by the gentleman from Minnesota [Mr. GRAMS].

AMENDMENT OFFERED BY MR. GRAMS

Mr. GRAMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GRAMS: Page 49, line 11, strike "\$954,686,000" and insert "\$939,766,000".

The CHAIRMAN. Pursuant to the rule, the gentleman from Minnesota [Mr. GRAMS] will be recognized for 10 minutes, and the gentleman from Iowa [Mr. SMITH] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. GRAMS].

Mr. GRAMS. Mr. Chairman, all of us have heard a lot of jokes about lawyers and Congress, but there is one joke being played on the American taxpayer that is not so funny.

Buried deep within this Labor/HHS appropriations bill is \$15 million in grants for law schools to establish or expand legal clinic programs.

That is right taxpayers: the Federal Government is now in the business of subsidizing the education and training of future lawyers. And with your tax dollars.

The amendment I am offering today would put an end to this practice by striking the \$15 million set aside for this program.

According to the committee report, the purpose of the clinical experience program is to provide law students with hands-on experience in delivering legal services for low-income Americans. But while this goal has some merit, there is no reason why we need this program or additional tax dollars to accomplish it.

First, we already have programs in place to address the legal needs of the poor. In fact, just yesterday, this body approved the Commerce-Justice-State appropriations bill which included \$415 million for the Legal Services Corporation—ironically, an increase of \$15 million from last year. Eliminating the funding for the law school clinical experience program will not leave low-income Americans without legal representation.

Second, law schools should be able to fund clinical programs on their own. With many private law schools charging annual tuitions of \$20,000 or more, does it make sense to bill the American taxpayer another \$15 million for this program?

I do not think so—and neither did the Clinton administration which eliminated funding for this program in its budget proposal.

Finally, the American taxpayer simply cannot afford this program. We are currently facing a huge budget deficit and a \$4.7 trillion national debt.

A majority of this body argued in March that our Nation's fiscal crisis is so bad we cannot afford to provide a \$500 per child tax credit to working middle-class American families. How then can we turn around and give to law schools enough Federal dollars to provide tax relief for up to 30,000 families with children? My colleagues, if the choice is between lawyers or families, I will choose families first.

For these reasons, I urge my colleagues to support my amendment to

cut the \$15 million for the law school clinical experience program. This is one legal bill the American taxpayer can no longer afford.

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

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Minnesota [Mr. GRAMS] without knowing it made an argument for this program. He said that yesterday we voted \$415 million for Legal Services. This is \$15 million to supplement what was done yesterday.

Law schools will pay for much more than this \$15 million to help supplement Legal Services. They serve the same people that the \$415 million serves. It is to help poor people get some legal services.

I have been to these law schools, including the one at Hamlin in the gentleman's area. It is a poverty law center just like the Gillis Long Poverty Center at Loyola in Louisiana. I have been down there, too. They do great work. Poor people come in. They may have a contract. They do not know what it means. Somebody is trying to sell them some health insurance. They do not know what it means. They need some place to go. They cannot go to a law firm and pay \$200 before they will even let them sit down in a chair. They need some help. A lot of this has to do with contracts for apartments or for their living conditions, or they may get a bill that is not even their bill. They need legal help. This is for legal help to poor people.

Mr. Chairman, law schools furnish this, and they pay a lot more money than what the Federal Government puts into it. This is a cheap way to get an additional supplement to Legal Services. If we were to fund Legal Services at the amount that they were funded at back in 1981, they would be \$800 million now instead of \$415 million. We have been running behind every year on the amount of legal services for the amount of people that can be served with the amount of money that we have in the Legal Services Corporation fund.

In addition to that, Mr. Chairman, these students are the greatest recruiting source we have for Legal Services. In Legal Services we only pay about \$25,000 a year, and they will take 2 years out of their life to serve in the Legal Services Corporation and at a fraction of what they can make if they go to a Minneapolis law firm or one of those New York law firms. But they will take 2 years out of their life because they have some experience in this program.

That is the greatest recruiter that we have. In fact, it is about the only recruiter we have. This would be a very bad mistake, and I know that some other programs were recommended for

deletion by the administration, too, because they wanted more money for some of their programs, including impact aid and Perkins capital contributions. State student incentives grades.

□ 2130

We did not accept all the cuts that they put in there, and that is no excuse for this one. We just should not accept this amendment.

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

Mr. Chairman, I would like to take a little time to answer some of the questions that my colleagues raised. As the gentleman mentioned, this money is to be used to help fund legal services for the poor. But as we mentioned earlier, yesterday this body approved a Commerce, Justice and State appropriations bill, \$415 million, to provide this type of legal services. As we noted, this is a \$15 million increase over last year's budget.

This money mainly goes to law schools. It does not go to law students. It helps to fund clinical services programs to help give them extra training. He called it a recruitment tool. Most of this is done by third-year law students, who have probably already made up their mind as to whether they are going to go into legal services or not. Whether this is a recruitment tool or not, I think would be very subjective.

Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. BARCA].

Mr. BARCA of Wisconsin. Mr. Chairman, overall I would like to congratulate you on a very difficult bill and I think a very sensible bill that I intend to vote for. We need some key cutbacks at a time when we also add more investments for employment and training and vocational education. But this is an area that President Clinton had suggested cutting.

Now, why can he suggest cutting this? Because the Congressional Budget Office in their review of this program stated this was meant to be a temporary program, not a permanent program.

Now, the problem that I have is that in this same budget we are cutting special education by \$188 million, which is a mandate, which is a key human need. While the author of this amendment does not agree to transfer part of this money to that, which I certainly would prefer, I just believe that as a matter of priority, we should follow the CBO, follow President Clinton's lead, and I do not believe this is nearly the priority that many of the other areas we have cutback are.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself 15 seconds to point out it is not correct to say this is an increase. This is the same amount of money that was in last year's bill. The gentleman talks about \$20,000. That may be so at Harvard, but it is not the private law

school in Des Moines, IA, which is \$12,000, and most State universities are \$8,000. The gentleman is talking about Harvard, not this program.

Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Chairman, I thank the chairman for yielding.

Mr. Chairman, I rise in opposition to the gentleman's amendment. I think it is important for us to understand that this program has been put into existence by our subcommittee and really provides the secretary an opportunity to provide grants to accredited law schools for clinical programs in which qualified attorneys provide legal services to poor people.

The gentleman who is the proponent of the amendment has admitted that this program is for low income or poor people, but indicates in his statement that he feels that they are already being served by the legal services programs.

The fact is that there are still an awful lot of poor people, a lot of low income people, who are unable to get services even through the legal services programs. So at the same time that law students are provided the type of training they ought to be given in a law school, and that is to be able to learn how to interview people, how to interview clients, how to produce and provide services, while they are doing this, they are also providing services to very low income people.

These clinics also have become a prime source for recruiting attorneys who are willing to work for below average salaries for legal services field offices. I think this is another point that ought not to be lost in terms of this legislation.

This 1994 funding will provide an estimated 23 grants, serving approximately 2,910 students. That is 2,910 students who will be given a little better education at the law school by virtue of being provided this type of clinical training. I think it makes sense. I hope that we will vote down the gentleman's amendment.

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

Mr. Chairman, I would just like to say this is all based on priorities. I think if this is such an important program to the students or to the poor who need these services, that the law school would build these priorities into their curriculum and fund it through their own curriculum, rather than through the Federal Government.

We, as a Congress, have to set our priorities. We are \$4.7 trillion in debt. If a law school is carrying any kind of a debt like this, they would end up going bankrupt. We cannot afford to fund these types of low priorities when we are facing, as the gentleman from Wisconsin, [Mr. BARCA], said earlier, larger priorities in education that we should be addressing.

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. GRAMS. I yield to the gentleman from California.

Mr. ROHRABACHER. Mr. Chairman, what the gentleman is suggesting is we do not need to fund a program that will produce more lawyers for our society. Is that right?

Mr. GRAMS. They are already going to be there.

Mr. ROHRABACHER. I seem to remember when I was young that the legal profession actually encouraged their people to volunteer to help the less fortunate. Do you think that this \$25 million could be perhaps made up by having bar associations, which are, after all, one of the richest elements in the communities throughout the United States of America, focus a little bit more on community service, rather than putting money in their pockets for doing what they should be doing voluntarily?

Mr. GRAMS. I should mention this money goes directly to the schools and not to the students providing the services. It is like a class exercise, a clinical service. If this is such an important priority of the classes that these students need, the college should work this into their curriculum and not look to the Federal Government to spend money on this type of priority.

Mr. Chairman, I yield back balance of my time.

Mr. SMITH of Iowa. Mr. Chairman, I yield myself such time as I may consume.

I would encourage the gentleman from Minneapolis, if I may have his attention, the gentleman obviously has not been to one of the three law schools in Minneapolis that have this program or he would not say some of the things he said. Those three law schools, all of them, I have been to Hamline, I have not been to the other two, they put in more money than the Federal Government is putting in. This is just an encouragement to them. It pays part of the salary of the person to run the law school clinic. They have to also have attorneys to help, they have to supervise those students, they have to have a place for them to do it. So this is furnishing legal services for the poor.

Now, I have heard all of the same arguments about Legal Services Corporation. I heard them for 10 years. Some people are just against legal services for the poor, period. That is it. If you are against legal services, you should have moved to cut \$15 million yesterday out of the Legal Services Corporation. If you cut \$15 million out of that, it would not have affected as many people as this will.

A lot of these people being served by the law schools that I am talking about are seeking to establish their right to Social Security. Lots of them are. They get ready to retire, they have

been minimum income people, they find our two or three employers did not turn in the reports that they should have. They have got to have help.

Social Security does not do that for them. Members of Congress do not either. They refer them to Legal Services Corporation to help them. This is to help poor people.

Mr. BUYER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Indiana.

Mr. BUYER. Mr. Chairman, just for the moment, sir, when you referred to the poor, I as a third year law student was part of the clinical program that received these kinds of funds. That program, though, sir, was not going out to service the poor, it was going to serve criminals who are in Westville Institution of Corrections.

Mr. SMITH of Iowa. You are absolutely wrong. This is not permitted under this program. You cannot do criminal legal work because the Constitution already provides for that. So we do not permit this money to be used for that purpose. If they did that, it is because the law school had a separate fund. You are surely wrong about that. This is only for those people who could be served or are eligible to be served by the Legal Services Corporation.

□ 2140

That is the only people that can be served out of this money.

Mr. BUYER. Mr. Chairman, I appreciate the clarification.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. GRAMS].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. GRAMS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 296]

ANSWERED "PRESENT"—413

Abercrombie	Bachus (AL)	Bartlett
Ackerman	Baessler	Barton
Allard	Baker (CA)	Bateman
Andrews (ME)	Baker (LA)	Becerra
Andrews (NJ)	Ballenger	Beilenson
Andrews (TX)	Barca	Bereuter
Applegate	Barcia	Berman
Archer	Barlow	Bevill
Armey	Barrett (NE)	Bilbray
Bacchus (FL)	Barrett (WI)	Bilirakis

Bishop
Blackwell
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combust
Condit
Conyers
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
Danner
Darden
Darden
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Derrick
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Franks (CT)
Franks (NJ)
Furse
Gallegly

Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy
Green
Greenwood
Gundersen
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings
Hayes
Hefley
Hefner
Herger
Hinchee
Hoagland
Hobson
Hochbrueckner
Hoekstra
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Istook
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klein
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski

Livingston
Lloyd
Long
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Manzullo
Margolies-
Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murphy
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Obey
Oliver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Penny
Peterson (FL)
Petri
Pickett
Pickle
Pomeroy
Porter
Portman
Poshard
Price (NC)
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Reynolds
Roberts
Roemer
Rogers
Rohrabacher
Romero-Barcelo
(PR)
Ros-Lehtinen

Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenck
Schiff
Schroeder
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Siskaggy
Skean
Skelton
Slattery
Smith (IA)
Smith (MI)

Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sabo
Sanders
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Schenck
Schiff
Schroeder
Scott
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Siskaggy
Skean
Skelton
Slattery
Smith (IA)
Smith (MI)

Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Spratt
Stark
Stearns
Stenholm
Stokes
Strickland
Studds
Stump
Stupak
Sundquist
Sweet
Swift
Synar
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thompson
Thornton
Thurman
Torkildsen
Torres
Torrice

Towns
Traficant
Tucker
Underwood (GU)
Unseid
Upton
Valentine
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt
Waxman
Weldon
Wheat
Wynn
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

Kyl
Laughlin
Leach
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lucas
Machtley
Manzullo
Margolies-
Mezvinsky
McCandless
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
McNulty
Meehan
Meyers
Mica
Molinar

Montgomery
Moorhead
Myers
Nussle
Orton
Oxley
Packard
Paxon
Penny
Peterson (MN)
Petri
Pickett
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Ramstad
Ravenel
Regula
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Rowland
Royce
Sangmeister
Santorum
Sarpalius
Schaefer
Schiff

Sensenbrenner
Shaw
Shays
Shuster
Skean
Skelton
Smith (MI)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Stump
Sundquist
Sweet
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (WY)
Torkildsen
Upton
Vucanovich
Walker
Weldon
Wolf
Zeliff
Zimmer

□ 2157

The CHAIRMAN. Four hundred thirteen Members have answered to their name, a quorum is present, and the Committee will resume its business.

The Chair would indicate that on the proceedings to follow, each vote shall be restricted to 5 minutes, and the Chair will try to hold Members to that 5 minutes.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Minnesota [Mr. GRAMS] for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 194, noes 232, not voting 13, as follows:

[Roll No. 297]

AYES—194

Allard
Andrews (NJ)
Archer
Armedy
Bachus (AL)
Baker (CA)
Baker (LA)
Ballenger
Barca
Barrett (NE)
Bartlett
Barton
Bateman
Bentley
Bereuter
Billirakis
Bliley
Blute
Boehner
Bonilla
Brewster
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Coble
Collins (GA)
Combust
Condit

Cooper
Costello
Cox
Crane
Crapo
Cunningham
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
Everett
Ewing
Fawell
Fingerhut
Fowler
Franks (CT)
Franks (NJ)
Gallegly
Gekas
Gillmor
Gingrich
Glickman
Goodlatte
Goodling
Goss
Grams
Greenwood
Gundersen

Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hayes
Hefley
Herger
Hoagland
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hutto
Hyde
Inglis
Inhofe
Inslee
Gallely
Gekas
Gillmor
Gingrich
Glickman
Kim
King
Kingston
Klug
Knollenberg
Kolbe

Abercrombie
Ackerman
Andrews (ME)
Andrews (TX)
Applegate
Bacchus (FL)
Baesler
Barcia
Barlow
Barrett (WI)
Becerra
Beilenson
Berman
Bevill
Billbray
Bishop
Blackwell
Boehlert
Bonior
Borski
Boucher
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Byrne
Cantwell
Cardin
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coppersmith
Coyne
Cramer
Danner
Darden
de la Garza
de Lugo (VI)
Deal
DeFazio
DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards (CA)
Edwards (TX)
Engel

English
Eshoo
Evans
Farr
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Furse
Gallo
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Grandy
Green
Gutierrez
Hall (OH)
Hamburg
Harman
Hastings
Hefner
Hinchee
Hochbrueckner
Hoyer
Hughes
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Klein
Klink
Kopetski
Kreidler
Krug
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Lewis (GA)
Lloyd

Long
Lowey
Maloney
Mann
Manton
Markey
Martinez
Matsui
Mazzoli
McCloskey
McDermott
McKinney
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moakley
Mollohan
Morella
Murphy
Murtha
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Oberstar
Obey
Oliver
Ortiz
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickle
Pomeroy
Porter
Price (NC)
Rahall
Rangel
Reed
Reynolds
Richardson
Roemer
Rogers
Romero-Barcelo
(PR)
Rose
Rostenkowski
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton

NOES—232

Schenk	Stupak	Visclosky
Schroeder	Swift	Volkmer
Scott	Synar	Walsh
Serrano	Tejeda	Waters
Sharp	Thompson	Watt
Shepherd	Thornton	Waxman
Sisisky	Thurman	Wheat
Skaggs	Torres	Williams
Slattery	Torricelli	Wilson
Slaughter	Towns	Wise
Smith (IA)	Traficant	Woolsey
Smith (NJ)	Tucker	Wyden
Spratt	Underwood (GU)	Wynn
Stark	Unsoeld	Yates
Stokes	Valentine	Young (AK)
Strickland	Velazquez	Young (FL)
Studds	Vento	

NOT VOTING—13

Carr	Fish	Ridge
Chapman	Hilliard	Schumer
Faleomavaega	Michel	Washington
(AS)	Moran	Whitten
Fields (TX)	Pombo	

□ 2204

Mr. BALLENGER changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Pursuant to the order of the House of today, proceedings will now resume on those amendments on which further proceedings were postponed in the following order:

An amendment offered by the gentleman from Florida [Mr. MICA]; an amendment offered by the gentleman from California [Mr. BAKER]; and an amendment offered by the gentleman from Illinois [Mr. CRANE].

The Chair will reduce to 5 minutes the time for any electronic vote.

AMENDMENT OFFERED BY MR. MICA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Florida [Mr. MICA] on which further proceedings were postponed and on which the "noes" prevailed by voice vote.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. MICA:

BILINGUAL AND IMMIGRANT EDUCATION

Page 45, line 21, strike "\$247,572,000" and insert "\$272,572,000," and, line 22, strike "\$50,000,000" and insert "\$75,000,000."

RECORDED VOTE

The CHAIRMAN. The pending business is the demand for a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 35, noes 393, not voting 11, as follows:

[Roll No. 298]

AYES—35

Baker (CA)	Fowler	McCollum
Becerra	Franks (NJ)	Mica
Billirakis	Goodling	Miller (FL)
Bonilla	Goss	Molinari
Calvert	Gutierrez	Oxley
Canady	Harman	Pastor
de la Garza	Hutto	Ros-Lehtinen
Deutsch	Johnson (CT)	Schenk
Diaz-Balart	Kim	Shaw
Eshoo	Knollenberg	Stearns
Farr	Lewis (CA)	Thurman
Filner	Lewis (FL)	

NOES—393

Abercrombie	Dunn	Kopetski
Ackerman	Durbin	Kreidler
Allard	Edwards (CA)	Kyl
Andrews (ME)	Edwards (TX)	LaFalce
Andrews (NJ)	Ehlers	Lambert
Andrews (TX)	Emerson	Lancaster
Applegate	Engel	Lantos
Archer	English	LaRocco
Armey	Evans	Laughlin
Bacchus (FL)	Everett	Lazio
Bacchus (AL)	Ewing	Leach
Baesler	Fawell	Lehman
Baker (LA)	Fazio	Levin
Ballenger	Fields (LA)	Levy
Barca	Fingerhut	Lewis (GA)
Barcia	Flake	Lewis (KY)
Barlow	Foglietta	Lightfoot
Barrett (NE)	Ford (MI)	Linder
Barrett (WI)	Ford (TN)	Lipinski
Bartlett	Frank (MA)	Livingston
Barton	Franks (CT)	Lloyd
Bateman	Frost	Long
Beilenson	Furse	Lowey
Bentley	Gallely	Lucas
Bereuter	Gallo	Machtley
Berman	Gejdenson	Maloney
Bevill	Gekas	Mann
Bilbray	Gephardt	Manton
Bishop	Geren	Mantullo
Blackwell	Gibbons	Margolies-
Bliley	Gilchrist	Mezvinsky
Blute	Gillmor	Markey
Boehert	Gilman	Martinez
Boehner	Gingrich	Matsui
Bonior	Glickman	Mazzoli
Borski	Gonzalez	McCandless
Boucher	Goodlatte	McCloskey
Brewster	Gordon	McCrery
Brooks	Grams	McCurdy
Browder	Grandy	McDade
Brown (CA)	Green	McDermott
Brown (FL)	Greenwood	McHale
Brown (OH)	Gunderson	McHugh
Bryant	Hall (OH)	McInnis
Bunning	Hall (TX)	McKeon
Burton	Hamburg	McKinney
Buyer	Hamilton	McMillan
Byrne	Hancock	McNulty
Callahan	Hansen	Meehan
Canwell	Hastert	Meek
Cardin	Hastings	Menendez
Carr	Hayes	Meyers
Castle	Hefley	Mfume
Clay	Hefner	Miller (CA)
Clayton	Herger	Mineta
Clement	Hinchey	Minge
Clinger	Hoagland	Mink
Clyburn	Hobson	Moakley
Coble	Hochbrueckner	Mollohan
Coleman	Hoekstra	Montgomery
Collins (GA)	Hoke	Moorhead
Collins (IL)	Holden	Moran
Collins (MI)	Horn	Morella
Combest	Houghton	Murphy
Condit	Hoyer	Murtha
Conyers	Huffington	Myers
Cooper	Hughes	Nadler
Coppersmith	Hunter	Neal (MA)
Costello	Hutchinson	Neal (NC)
Cox	Hyde	Norton (DC)
Coyne	Inglis	Nussle
Cramer	Inhofe	Oberstar
Crane	Insee	Obey
Crapo	Istook	Oliver
Cunningham	Jacobs	Ortiz
Danner	Jefferson	Orton
Darden	Johnson (GA)	Owens
de Lugo (VI)	Johnson (SD)	Packard
Deal	Johnson, E. B.	Pallone
DeFazio	Johnson, Sam	Parker
DeLauro	Johnston	Paxon
DeLay	Kanjorski	Payne (NJ)
Dellums	Kaptur	Payne (VA)
Derrick	Kasich	Pelosi
Dickey	Kennedy	Penny
Dicks	Kennelly	Peterson (FL)
Dingell	Kildee	Peterson (MN)
Dixon	King	Petri
Dooley	Kingston	Pickett
Doornan	Kleczka	Pickle
Dreier	Klein	Pomeroy
Duncan	Klink	Porter
	Klug	Portman
	Kolbe	Poshard

Price (NC)	Serrano	Thomas (WY)
Pryce (OH)	Sharp	Thompson
Quillen	Shays	Thornton
Quinn	Shepherd	Torkildsen
Rahall	Shuster	Torres
Ramstad	Sisisky	Torricelli
Rangel	Skaggs	Towns
Ravenel	Skeen	Traficant
Reed	Skelton	Tucker
Regula	Slattery	Underwood (GU)
Reynolds	Slaughter	Unsoeld
Richardson	Smith (IA)	Upton
Roberts	Smith (MI)	Valentine
Roemer	Smith (NJ)	Velazquez
Rogers	Smith (OR)	Vento
Rohrabacher	Smith (TX)	Visclosky
Romero-Barcelo	Snowe	Volkmer
(PR)	Solomon	Vucanovich
Rose	Spence	Walker
Rostenkowski	Spratt	Walsh
Roth	Stark	Waters
Roukema	Stenholm	Watt
Rowland	Stokes	Waxman
Roybal-Allard	Strickland	Weldon
Royce	Studds	Wheat
Rush	Stump	Williams
Sabo	Stupak	Wilson
Sanders	Sundquist	Wise
Sangmeister	Swett	Wolf
Santorum	Swift	Woolsey
Sarpalio	Synar	Wyden
Sawyer	Talent	Wynn
Saxton	Tanner	Yates
Schaefer	Tauzin	Young (AK)
Schiff	Taylor (MS)	Young (FL)
Schroeder	Taylor (NC)	Zeliff
Scott	Tejeda	Zimmer
Sensenbrenner	Thomas (CA)	

NOT VOTING—11

Chapman	Fish	Ridge
Faleomavaega	Hilliard	Schumer
(AS)	Michel	Washington
Fields (TX)	Pombo	Whitten

□ 2213

Ms. DUNN, and Messrs. GREENWOOD, DICKEY, and LINDER changed their vote from "aye" to "no."

Messrs. PASTOR, GUTIERREZ, AND BECERRA changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BAKER OF CALIFORNIA

The CHAIRMAN. The pending business is the demand of the gentleman from California [Mr. BAKER] for a recorded vote on which further proceedings were postponed and on which the "noes" prevailed by voice vote.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. BAKER of California:

On page 52, line 19, strike "\$114,996,000" and insert in lieu thereof "\$115,996,000".

RECORDED VOTE

The CHAIRMAN. The gentleman from California [Mr. BAKER] has demanded a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 319, noes 109, not voting 11, as follows:

[Roll No. 299]

AYES—319

Allard	Applegate	Baker (CA)
Andrews (ME)	Archer	Baker (LA)
Andrews (NJ)	Bacchus (AL)	Ballenger
Andrews (TX)	Baesler	Barca

Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bartlett
Bateman
Berouter
Billbray
Bilirakis
Bishop
Billey
Blute
Boehlert
Boehner
Bonilla
Borski
Brewster
Brooks
Browder
Brown (FL)
Brown (OH)
Bryant
Bunning
Burton
Buyer
Byrne
Callahan
Calvert
Camp
Canady
Cantwell
Castle
Clinger
Coble
Collins (GA)
Collins (IL)
Combest
Condit
Cooper
Coppersmith
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cunningham
de la Garza
de Lugo (VI)
DeFazio
DeLay
Derrick
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Durbin
Edwards (TX)
Ehlers
Emerson
Engel
English
Everett
Ewing
Farr
Fawell
Fields (LA)
Filner
Fingerhut
Foglietta
Fowler
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gillman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grams
Grandy

Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hayes
Hefley
Heger
Hinchee
Hoagland
Hobson
Hochbrueckner
Hoekstra
Hoke
Holden
Horn
Houghton
Huffington
Hunter
Hutchinson
Hyde
Inglis
Inhofe
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
Kim
King
Kingston
Klecicka
Klink
Klug
Knollenberg
Kolbe
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Laughlin
Lazio
Leach
Lehman
Levy
Lewis (CA)
Lewis (FL)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lloyd
Long
Lucas
Machtley
Maloney
Manzullo
Margolies-
Mezvinsky
Mazzoli
McCandless
McCollum
McCrery
McCurdy
McDade
McHale
McHugh
McInnis
McKeon
McMillan
Meehan
Menendez
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Minge
Moakley

Molnari
Montgomery
Moorhead
Moran
Morella
Murphy
Myers
Nadler
Neal (MA)
Neal (NC)
Norton (DC)
Nussle
Oberstar
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickle
Pomeroy
Porter
Portman
Poshard
Pryce (OH)
Quillen
Quinn
Rahall
Ramstad
Rangel
Ravenel
Reed
Regula
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal-Allard
Royce
Rush
Sanders
Sangmeister
Santorum
Sarpanis
Saxton
Schaefer
Schenk
Schiff
Schroeder
Sensenbrenner
Sharp
Shaw
Shays
Shepherd
Shuster
Sisisky
Siskiny
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solomon
Spence
Stearns
Stenholm
Studds
Stump
Stupak
Sundquist
Swett
Talent
Tanner
Tauzin
Taylor (NC)
Tejeda
Thomas (CA)
Thomas (WY)
Thornton
Thurman

Torkildsen
Torricelli
Tucker
Underwood (GU)
Upton
Valentine
Velazquez

Vucanovich
Walker
Walsh
Weldon
Williams
Wilson
Wolf

Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

[Roll No. 300]

AYES—42

Archer
Armey
Bartlett
Barton
Boehner
Bunning
Burton
Canady
Collins (GA)
Combest
Cox
Crane
DeLay
Doolittle

Dornan
Dreier
Emerson
Grams
Hancock
Hastert
Hunter
Hyde
Istook
Johnson, Sam
Kim
Kingston
Laughlin
Linder

Manzullo
McCandless
Paxon
Rohrabacher
Roth
Royce
Santorum
Sensenbrenner
Shuster
Smith (TX)
Solomon
Stump
Walker
Zimmer

NOES—109

Abercrombie
Ackerman
Armey
Bacchus (FL)
Barton
Becerra
Bellenson
Berman
Bevill
Blackwell
Bonior
Boucher
Brown (CA)
Cardin
Carr
Clay
Clayton
Clement
Clyburn
Coleman
Collins (MI)
Conyers
Danner
Darden
Deal
DeLauro
Dellums
Deutsch
Dingell
Dixon
Edwards (CA)
Eshoo
Evans
Fazio
Flake
Ford (MI)

Ford (TN)
Frank (MA)
Gejdenson
Gephardt
Gibbons
Hamburg
Hastings
Hefner
Hoyer
Hughes
Hutto
Insee
Johnston
Kennedy
Klein
Kopetski
Kreidler
Levin
Lewis (GA)
Lowey
Mann
Manton
Markey
Martinez
Matsui
McCloskey
McDermott
McKinney
McNulty
Meek
Mineta
Mink
Mollohan
Murtha
Obey
Oliver
Pelosi

Penny
Pickett
Price (NC)
Reynolds
Richardson
Romero-Barcelo
(PR)
Sabo
Sawyer
Scott
Serrano
Skaggs
Slattery
Smith (IA)
Spratt
Stark
Stokes
Strickland
Swift
Synar
Taylor (MS)
Thompson
Torres
Townes
Trafigant
Unsoeld
Vento
Visclosky
Volkmmer
Waters
Watt
Waxman
Wheat
Wise
Woolsey
Wyden

Abercrombie
Ackerman
Allard
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Applegate
Bacchus (FL)
Bacchus (AL)
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barca
Barcia
Barlow
Barrett (NE)
Barrett (WI)
Bateman
Becerra
Bellenson
Bentley
Bereuter
Berman
Bevill
Billbray
Bilirakis
Bishop
Blackwell
Billey
Blute
Boehlert
Bonilla
Bonior
Borski
Boucher
Brewster
Brooks
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant
Buyer
Byrne
Callahan
Calvert
Camp
Cantwell
Cardin
Carr
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Coppersmith
Costello
Coyne
Cramer
Crapo
Cunningham

DeLauro
Dellums
Derrick
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Duncan
Dunn
Durbin
Edwards (CA)
Edwards (TX)
Ehlers
Engel
English
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Filner
Fingerhut
Flake
Foglietta
Ford (MI)
Ford (TN)
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frost
Furse
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gillman
Gingrich
Glickman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Grandy
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamburg
Hamilton
Hansen
Harman
Hastings
Hayes
Hefley
Hefner
Heger
Hinchee
Hoagland
Hobson
Hochbrueckner
Hoekstra

Hoke
Holden
Horn
Houghton
Hoyer
Huffington
Hughes
Hutchinson
Hutto
Inglis
Inhofe
Insee
Jacobs
Jefferson
Johnson (CT)
Johnson (GA)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kennelly
Kildee
King
Klecicka
Klink
Klug
Knollenberg
Kolbe
Kopetski
Kreidler
Kyl
LaFalce
Lambert
Lancaster
Lantos
LaRocco
Lazio
Leach
Lehman
Levin
Levy
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lewis (KY)
Lightfoot
Lipinski
Livingston
Lloyd
Lowey
Lucas
Machtley
Maloney
Mann
Manton
Margolies-
Mezvinsky
Markey
Martinez
Matsui
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McHale
McDermott
McHale
McHugh
McInnis
McKeon

NOES—384

NOT VOTING—11

Chapman
Faleomavaega
(AS)
Fields (TX)

Fish
Hilliard
Michel
Pombo

Ridge
Schumer
Washington
Whitten

□ 2220

Messrs. BAESLER, NADLER, and UNDERWOOD, Mrs. SCHROEDER, Mr. HOCHBRUECKNER, Mr. STUDDS, Ms. BROWN of Florida, Ms. CANTWELL, Ms. ROYBAL-ALLARD, and Mr. GORDON changed their vote from "no" to "aye."

So the amendment was agreed to.
The result of the vote was announced as above recorded.

□ 2220

AMENDMENT OFFERED BY MR. CRANE

The CHAIRMAN. The pending business is the demand of the gentleman from Illinois [Mr. CRANE] for a recorded vote on which further proceedings were postponed and on which the "noes" prevailed by voice vote.

The Clerk will report the amendment.

The Clerk read as follows:
Amendment offered by Mr. CRANE:
Page 56, line 11, strike "\$20,100,000" and insert "\$292,640,000".

RECORDED VOTE

The CHAIRMAN. The gentleman from Illinois [Mr. CRANE], has demanded a recorded vote.

A recorded vote was ordered.
The vote was taken by electronic device, and there were—ayes 42, noes 384, not voting 13, as follows:

McKinney	Pryce (OH)	Stearns
McMillan	Quillen	Stenholm
McNulty	Quinn	Stokes
Meehan	Rahall	Strickland
Meek	Ramstad	Studds
Menendez	Rangel	Stupak
Meyers	Ravenel	Sundquist
Mfume	Reed	Sweet
Mica	Regula	Swift
Miller (CA)	Reynolds	Synar
Miller (FL)	Richardson	Talent
Mineta	Roberts	Tanner
Minge	Roemer	Tauzin
Mink	Rogers	Taylor (MS)
Moakley	Romero-Barcelo	Taylor (NC)
Molinari	(PR)	Tejeda
Mollohan	Ros-Lehtinen	Thomas (CA)
Montgomery	Rose	Thomas (WY)
Moorhead	Rostenkowski	Thompson
Moran	Roukema	Thornton
Morella	Rowland	Thurman
Murphy	Roybal-Allard	Torkildsen
Murtha	Rush	Torres
Myers	Sabo	Torrice
Nadler	Sanders	Towns
Neal (MA)	Sangmeister	Trafficant
Neal (NC)	Sarpalius	Tucker
Norton (DC)	Sawyer	Underwood (GU)
Nussle	Saxton	Unsoeld
Oberstar	Schaefer	Upton
Obey	Schenk	Valentine
Olver	Schiff	Velazquez
Ortiz	Schroeder	Vento
Orton	Scott	Visclosky
Oxley	Serrano	Volkmer
Packard	Sharp	Vucanovich
Pallone	Shaw	Walsh
Parker	Shays	Waters
Pastor	Shepherd	Watt
Payne (NJ)	Sisisky	Waxman
Payne (VA)	Skaggs	Weldon
Pelosi	Skeen	Williams
Penny	Skelton	Wilson
Peterson (FL)	Slattery	Wise
Peterson (MN)	Slaughter	Wolf
Petri	Smith (IA)	Woolsey
Pickett	Smith (MI)	Wyden
Pickle	Smith (NJ)	Wynn
Pomeroy	Smith (OR)	Yates
Porter	Snowe	Young (AK)
Portman	Spence	Young (FL)
Poshard	Spratt	Zeliff
Price (NC)	Stark	

NOT VOTING—13

Chapman	Hilliard	Shumer
Faleomavaega	Michel	Washington
(AS)	Owens	Wheat
Fields (TX)	Pombo	Whitten
Fish	Ridge	

□ 2227

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to the section that has just been read?

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: Page 49, line 8 after "title VI", insert; including Part C."

Mr. TRAFICANT. Mr. Chairman, I yield to the chairman of the subcommittee, the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, I have seen the amendment, and I have no objection to it.

Mr. TRAFICANT. Mr. Chairman, I yield to the distinguished ranking member, the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. I thank the gentleman for yielding.

Mr. Chairman, we have no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to this section?

AMENDMENT OFFERED BY MR. HEFLEY

Mr. HEFLEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFLEY: Page 56, line 11, strike \$20,100,000 and insert "\$21,100,000".

Mr. HEFLEY. Mr. Chairman, I yield to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, in the interest of time I am willing to accept the amendment and take it to conference.

Mr. HEFLEY. Mr. Chairman, I yield to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. I thank the gentleman for yielding.

Mr. Chairman, we have no objection.

Mr. HEFLEY. Mr. Chairman, my amendment would increase the reversion for the Corporation for Public Broadcasting by \$1 million.

This is roughly what the Pacifica Radio Network receives yearly.

Taxpayer-subsidized Pacifica has shown a consistent pattern of hate-programming that I don't believe any member can justify paying for with our tax dollars.

Some will say I only cite quotes from a single program as evidence of Pacifica's hate-programming.

I wish the hate-programming that this network spews was confined to a single broadcast which occurred 2 years ago. It's not.

New programs that are just as divisive and racist have taken the place of past programs. Here are some quotes from a January 5, 1994 broadcast of "Family Tree":

*** organized Jewry has targeted the Black population. Black progress seems to be one of its major sort of targets. (Jewry) seems bent on trying to thwart Black progress.

Here's another:

The Jew was an integral part of the whole apparatus of slavery. (Jews) had a higher per capita slave ownership than other white people in this country.

*** All two or three hundred million Africans who died in slave trade died because Jewish *** scholars invented the Hamidic myth.

From a May 25, 1994 broadcast of "Freedom Now":

Christianity was used as a justification to enslave Africans . . . , giving birth to racist regimes all over the world.

How can anyone who hears this say that hate-programming is no longer a part of Pacifica's broadcasts?

Next, opponents of this amendment will assert that the Pacifica station apologized for hateful comments made by Dr. Leonard Jeffries to a caller during a broadcast.

What about an apology for comments about how real Jews are black and that white Jews are "hypocrites" for claiming to be Jewish?

How about an apology for the statement: "The white man is Satan himself."

How about an apology for calls on Pacifica where the caller said, "The Jews haven't seen anything yet. What is going to happen to them is going to make what Hitler did seem like a party."

How about an apology for the statement that a recent measles epidemic was a "genocidal plot" by whites against the black community?

My question remains: Why are we subsidizing Pacifica to broadcast this stuff?

A member of CPB's own board, Victor Gold, regularly monitors Pacifica nationwide and calls Pacifica's hate-programming consistent and persistent. These ongoing broadcasts prove it.

Regarding the commentaries by convicted cop-killer Abu-Jamal, National Public Radio itself pulled the commentaries at the last minute from their broadcast.

According to NPR managing editor Bruce Drake, NPR had serious misgivings about the appropriateness of the commentaries, citing that because National Public Radio had not provided for "contrasting points of view" as required by the 1992 authorization, the commentaries were pulled.

If the commentaries are unfit for NPR, why are they appropriate for taxpayer-subsidized Pacifica radio network?

CONCLUSION

It is a fact that the Pacifica network, which receives Federal funds from the Corporation for Public Broadcasting, has broadcast hate-programming in the past.

It is a fact that Pacifica is still broadcasting hate-programming.

Pacifica will continue this programming whether taxpayers help pay for it or not.

CPB Board Member Mr. Gold wonders why the Federal Government is subsidizing Pacifica's sustained campaign of hate-programming. I wonder too.

Mr. MARKEY. Mr. Chairman, the Heley amendment represents the most dangerous form of direct government censorship. It targets a particular station for the broadcast of a particular program that someone in the government did not like.

There will always be programs on public broadcasting stations that any one of us might object to for some reason. But we cannot allow the government to censor programming or editorial decisionmaking of public broadcasting stations.

A commentator on a Pacifica radio station made statements during a program that were objectionable. They set ground rules, and the commentator chose not to appear again on the air under those rules. The station offered reply time to those who objected to the comments. The station responded to this event in a reasonable manner.

While I also object to the statements allegedly made on this program, I must strongly object to any effort to place the government directly in the role of a censor of programming. This violates our national commitment to freedom of expression and freedom of the press from direct government censorship.

While we must demand accountability. While we must, and do, demand objectivity and balance from public broadcasters. We must say no to efforts to target any particular program, station or newscast from direct political retribution. This is government censorship in its most virulent and destructive form and I strongly object to the acceptance of this amendment by the committee without debate and without a vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. HEFLEY].

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FEDERAL MEDIATION AND CONCILIATION SERVICE
SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182-183), including hire of passenger motor vehicles; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), \$31,078,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION
SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), \$6,200,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE
SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345, as amended by Public Law 102-95), \$901,000.

NATIONAL COUNCIL ON DISABILITY
SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, \$1,643,000.

NATIONAL LABOR RELATIONS BOARD
SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, \$173,388,000: *Provided*, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD
SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as

amended (45 U.S.C. 151-188), including emergency boards appointed by the President, \$8,119,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION
SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), \$7,595,000.

PHYSICIAN PAYMENT REVIEW COMMISSION
SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, \$4,176,000 to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION
SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, \$4,667,000 to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD
DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, \$261,000,000, which shall include amounts becoming available in fiscal year 1995 pursuant to section 224(c)(1)(B) of Public Law 98-76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds \$261,000,000: *Provided*, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, \$300,000, to remain available through September 30, 1996, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, \$73,881,000, to be derived from the railroad retirement accounts: *Provided*, That \$200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved.

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than \$17,031,000 shall be apportioned for fiscal year 1995 from moneys credited to the railroad unemployment insurance administration fund.

SPECIAL MANAGEMENT IMPROVEMENT FUND

To effect management improvements, including the reduction of backlogs, accuracy of taxation accounting, and debt collection, \$1,640,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided*, That

these funds shall supplement, not supplant, existing resources devoted to such operations and improvements.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than \$6,682,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

UNITED STATES INSTITUTE OF PEACE
OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, \$10,912,000.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 502. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided*, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 503. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 504. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 505. The Secretaries of Labor and Education are each authorized to make available not to exceed \$15,000 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed \$2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed \$2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 506. Notwithstanding any other provision of this Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the Surgeon General of the United States determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs, except that such funds may be used for such purposes in furtherance of demonstrations or studies authorized in the ADAMHA Reorganization Act (Public Law 102-321).

SEC. 507. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act").

SEC. 508. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

SEC. 509. None of the funds appropriated under this Act shall be expended for any abortion except when it is made known to the Federal entity or official to which funds are appropriated under this Act that such procedure is necessary to save the life of the mother or that the pregnancy is the result of an act of rape or incest.

SEC. 510. No funds appropriated herein shall be used to implement any regulation promulgated under section 481(b)(6) of the Higher Education Act of 1965, as amended, prior to July 1, 1995.

SEC. 511. None of the funds appropriated or otherwise made available under this Act may be obligated in violation of existing Federal law or regulation already prohibiting such benefit or assistance.

Mr. SMITH of Iowa (during the reading). Mr. Chairman, I ask unanimous consent that the remainder of the bill through page 65, line 16, be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

The CHAIRMAN. Are there any points of order to this section of the bill?

The Chair hears none.

Mr. SMITH of Iowa. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

□ 2230

Accordingly, the Committee rose and the Speaker pro tempore [Mrs. UNSOELD] having assumed the chair, Mr. SHARP, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4606) making appropriations for

the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1995, and for other purposes, had come to no resolution thereon.

PROVIDING FOR COMPLETION OF DEBATE AFTER ONE HOUR WHEN COMMITTEE OF THE WHOLE HOUSE RESUMES CONSIDERATION OF H.R. 4606, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1995

Mr. GEPHARDT. Madam Speaker, I ask unanimous consent that when the Committee of the Whole resumes consideration of the bill, H.R. 4606, all debate on the bill and amendments there-to be closed after 1 further hour.

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

There was no objection.

ANNOUNCEMENT OF INTENTION TO OFFER MOTION TO INSTRUCT CONFEREES ON H.R. 3355, VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1993

Ms. MOLINARI. Pursuant to clause 1(c) of rule XXVIII, Madam Speaker, I am announcing to the House that I intend to offer a motion to instruct conferees on the bill, H.R. 3355, the Violent Crime Control and Law Enforcement Act of 1993.

The form of the motion is as follows:

Ms. MOLINARI moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the House amendment to the Senate amendment to the bill H.R. 3355 be instructed not to make any agreement that does not include Subtitle E of Title VIII of the Senate amendment, providing for the admissibility of evidence of similar crimes in sex offense cases.

CONFERENCE REPORT ON H.R. 4454, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1995

Mr. FAZIO submitted the following conference report and statement on the bill (H.R. 4454) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1995, and for other purposes:

CONFERENCE REPORT (H. REPT. 103-567)

The committee of conference on the disagreeing votes of the two Houses on the amendments to the Senate to the bill (H.R. 4454) "making appropriations for the Legislative Branch for the fiscal year ending September 30, 1995, 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 Senate recede from its amendments numbered 24 and 31.

That the House recede from its disagreement to the amendments of the Senate num-

bered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 23, 27, 28, and 29, and agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: \$60,084,000; and the Senate agree to the same.

Amendment numbered 21:

That the House recede from its disagreement to the amendment of the Senate numbered 21, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: \$12,483,000; and the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment, as follows:

In lieu of the sum proposed by said amendment insert: \$3,441,000; and the Senate agree to the same.

Amendment numbered 25:

That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment, as follows:

In lieu of the amount proposed by said amendment insert: \$4,293; and the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 207. Section 207(a) of the Legislative Appropriations Act, 1993 (Public Law 102-392) is amended—

(1) in paragraph (2)(A) by inserting after "as certified by the Public Printer," the following: "if the work is included in a class of work which"; and

(2) by amending paragraph (3) to read as follows:

"(3) As used in this section, the term 'printing' includes the processes of composition, platemaking, presswork, duplicating, silk screen processes, binding, microform, and the end items of such processes."

And the Senate agree to the same.

Amendment numbered 30:

That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 310. Upon enactment of this Act, \$2,015,000 is made available under the headings "Architect of the Capitol, Capitol Buildings and Grounds, Capitol Buildings" to remain available until expended for all necessary expenses relating to the purchase and installation of x-ray machines and magnetometers: Provided, That the cost limitation for security installations, which are approved by the Capitol Police Board, authorized by House Concurrent Resolution 550, Ninety-Second Congress, agreed to September 19, 1972, is hereby further increased by \$2,015,000: Provided further, That the amount made available shall be derived by transfer from the funds appropriated to the Clerk of the House in the Fiscal year 1986 Urgent Supplemental Appropriations Act, Public Law 99-349, and subsequently transferred to the Architect of the Capitol pursuant to the Legislative Branch Appropriations Act, 1989, Public Law 100-458, for Capitol Complex Security Enhancements.

And the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment, as follows:

Retain the matter proposed by said amendment amended as follows:

In lieu of the section number proposed by said amendment insert: 311; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows:

In lieu of the matter proposed by said amendment insert:

SEC. 312. ARCHITECT OF THE CAPITOL HUMAN RESOURCES PROGRAM.—(a) SHORT TITLE.—This section may be cited as the "Architect of the Capitol Human Resources Act".

(b) FINDING AND PURPOSE.—

(1) FINDING.—The Congress finds that the Office of the Architect of the Capitol should develop human resources management programs that are consistent with the practices common among other Federal and private sector organizations.

(2) PURPOSE.—It is the purpose of this section to require the Architect of the Capitol to establish and maintain a personnel management system that incorporates fundamental principles that exist in other modern personnel systems.

(c) PERSONNEL MANAGEMENT SYSTEM.—

(1) ESTABLISHMENT.—The Architect of the Capitol shall establish and maintain a personnel management system.

(2) REQUIREMENTS.—The personnel management system shall at a minimum include the following:

(A) A system which ensures that applicants for employment and employees of the Architect of the Capitol are appointed, promoted, and assigned on the basis of merit and fitness after fair and equitable consideration of all applicants and employees through open competition.

(B) An equal employment opportunity program which includes an affirmative employment program for employees and applicants for employment, and procedures for monitoring progress by the Architect of the Capitol in ensuring a workforce reflective of the diverse labor force.

(C) A system for the classification of positions which takes into account the difficulty, responsibility, and qualification requirements of the work performed, and which conforms to the principle of equal pay for substantially equal work.

(D) A program for the training of Architect of the Capitol employees which has among its goals improved employee performance and opportunities for employee advancement.

(E) A formal performance appraisal system which will permit the accurate evaluation of job performance on the basis of objective criteria for all Architect of the Capitol employees.

(F) A fair and equitable system to address unacceptable conduct and performance by Architect of the Capitol employees, including a general statement of violations, sanctions, and procedures which shall be made known to all employees, and a formal grievance procedure.

(G) A program to provide services to deal with mental health, alcohol abuse, drug abuse, and other employee problems, and which ensures employee confidentiality.

(H) A formal policy statement regarding the use and accrual of sick and annual leave which shall be made known to all employees, and which is consistent with the other requirements of this section.

(d) IMPLEMENTATION OF PERSONNEL MANAGEMENT SYSTEM.—

(1) DEVELOPMENT OF PLAN.—The Architect of the Capitol shall—

(A) develop a plan for the establishment and maintenance of a personnel management system designed to achieve the requirements of subsection (c);

(B) submit the plan to the Speaker of the House of Representatives, the House Office Building Commission, the Committee on Rules and Administration of the Senate, the Joint Committee on the Library, and the Committee on Appropriations of the Senate and the House of Representatives not later than 12 months after the date of enactment of this Act; and

(C) implement the plan not later than 90 days after the plan is submitted to the Speaker of the House of Representatives, the House Office Building Commission, the Committee on Rules and Administration of the Senate, the Joint Committee on the Library, and the Committees on Appropriations of the Senate and the House of Representatives, as specified in subparagraph (B).

(2) EVALUATION AND REPORTING.—The Architect of the Capitol shall develop a system of oversight and evaluation to ensure that the personnel management system of the Architect of the Capitol achieves the requirements of subsection (c) and complies with all other relevant laws, rules and regulations. The Architect of the Capitol shall report to the Speaker of the House of Representatives, the House Office Building Commission, the Committee on Rules and Administration of the Senate, and the Joint Committee on the Library on an annual basis the results of its evaluation under this subsection.

(3) APPLICATION OF LAWS.—Nothing in this section shall be construed to alter or supersede any other provision of law otherwise applicable to the Architect of the Capitol or its employees, unless expressly provided in this section.

(e) DISCRIMINATION COMPLAINT PROCESSING.—

(1) DEFINITIONS.—For purposes of this subsection:

(A) The term "employee of the Architect of the Capitol" or "employee" means—

(i) any employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants;

(ii) any applicant for a position that is to be occupied by an individual described in clause (i); or

(iii) within 180 days after the termination of employment with the Architect of the Capitol, any individual who was formerly an employee described in clause (i) and whose claim of a violation arises out of the individual's employment with the Architect of the Capitol.

(B) The term "violation" means a practice that violates paragraph (2) of this subsection.

(C) Notwithstanding subparagraph (A), the terms "employee of the Architect of the Capitol" and "employee" do not include any individual referred to in clause (i), (ii), or (iii) of such subparagraph who is a House of Representatives garage or parking lot attendant (including the Superintendent), with respect to whom supervision and all other employee-related matters are transferred to the Sergeant at Arms of the House of Representatives pursuant to direction of the Committee on Appropriations of the House of Representatives in House Report 103-517 of the One Hundred Third Congress.

(2) DISCRIMINATORY PRACTICES PROHIBITED.—

(A) IN GENERAL.—All personnel actions affecting employees of the Architect of the Capitol shall be made free from any discrimination based on—

(i) race, color, religion, sex, or national origin, within the meaning of section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16);

(ii) age, within the meaning of section 15 of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 633a); or

(iii) handicap or disability, within the meaning of section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) and sections 102 through 104 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12112-14).

(B) INTIMIDATION PROHIBITED.—Any intimidation of, or reprisal against, any employee by the Architect of the Capitol, or by any employee of the Architect of the Capitol, because of the exercise of a right under this section constitutes an unlawful employment practice, which may be remedied in the same manner as are other violations described in subparagraph (A).

(3) PROCEDURE FOR CONSIDERATION OF ALLEGED VIOLATIONS.—

(A) Any employee of the Architect of the Capitol alleging a violation of paragraph (2) may file a charge with the General Accounting Office Personnel Appeals Board in accordance with the General Accounting Office Personnel Act of 1980 (31 U.S.C. 751-55). Such a charge may be filed only after the employee has filed a complaint with the Architect of the Capitol in accordance with requirements prescribed by the Architect of the Capitol and has exhausted all remedies pursuant to such requirements.

(B) The Architect of the Capitol shall carry out any action within its authority that the Board orders under section 4 of the General Accounting Office Personnel Act of 1980 (31 U.S.C. 753).

(C) The Architect of the Capitol shall reimburse the General Accounting Office for costs incurred by the Board in considering charges filed under this subsection.

(4) AMENDMENTS TO THE GENERAL ACCOUNTING OFFICE PERSONNEL ACT OF 1980.—

(A) Section 751(a)(1) of title 31, United States Code, is amended by inserting "or of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants," after "Office".

(B) Section 753(a) of title 31, United States Code, is amended—

(i) in paragraph (7) by striking "and" at the end of the paragraph;

(ii) in paragraph (8) by striking the period and inserting "; and"; and

(iii) by inserting at the end thereof the following:

"(9) an action involving discrimination prohibited under section 312(e)(2) of the Architect of the Capitol Human Resources Act."

(C) Section 755 of title 31, United States Code, is amended—

(i) in subsection (a), by striking "or (7)" and inserting ", (7) or (9)"; and

(ii) in subsection (b)—

(I) by striking "or applicant for employment" and inserting "applicant for employment, or employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants"; and

(II) by inserting "or under section 312(e)(2) of the Architect of the Capitol Human Resources Act" after "of this title".

(f) CONFORMING AMENDMENTS.—

(1) Section 301(c) of Public Law 102-166 is amended—

(A) by striking subparagraph (B);

(B) by striking "or (B)" in subparagraphs (C) and (D); and

(C) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(2) Section 305(c) of Public Law 102-166 is amended to read as follows:

"(c) **EMPLOYEES OF THE CAPITOL POLICE.—**In the case of an employee who is a member of the Capitol Police, the Director may refer the employee to the Capitol Police Board for resolution of the employee's complaint through the internal grievance procedures of the Capitol Police Board for a specific period of time, which shall not count against the time available for counseling or mediation under this title."

(3) Section 312 of Public Law 102-166 is amended by striking "or by the Architect of the

Capitol, or anyone employed by the Architect of the Capitol."

(4) Section 501(h)(2) of the Family and Medical Leave Act of 1993 is amended by striking "(or (B))".

And the Senate agree to the same.

VIC FAZIO,
JAMES P. MORAN,
DAVID R. OBAY,
JOHN P. MURTHA,
BOB CARR,
MARTIN O. SABO,
BILL YOUNG,
RON PACKARD,
CHARLES H. TAYLOR,
JOSEPH M. MCDADE,

Managers on the Part of the House.

HARRY REID,
BARBARA A. MIKULSKI,
PATTY MURRAY,
ROBERT C. BYRD,
CONNIE MACK,
CONRAD BURNS,
MARK O. HATFIELD,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE ON CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4454) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1995, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

TITLE I—CONGRESSIONAL OPERATIONS SENATE

Amendment No. 1: Appropriates \$437,580,500 for the operations of the Senate, and contains several administrative provisions, as proposed by the Senate. Inasmuch as the amendment relates solely to the Senate and in accord with long practice under which each body concurs without intervention, the managers on the part of the House, at the request of the managers on the part of the Senate, have receded to the Senate amendment.

HOUSE OF REPRESENTATIVES

It is the sense of the conferees that the Committee on House Administration should have authority to utilize the Congressional Management Foundation in any training seminars the Committee on House Administration deems its services might be appropriate.

CAPITOL POLICE BOARD CAPITOL POLICE SALARIES

Amendment No. 2: Appropriates \$69,382,000, including authority for hazardous duty pay differential and a clothing allowance, for the salaries and related personnel expenses of the Capitol Police as proposed by the Senate instead of \$65,991,000 as proposed by the House. The conferees have agreed to the Senate amendment which deleted the matter contained in the House bill, and which provides \$33,463,000 to the Sergeant at Arms of the House, to be disbursed by the Clerk of the House, for the salaries and related personnel expenses of the Capitol Police assigned to the House rolls as proposed by the Senate instead of \$31,833,000 as proposed by the House, and \$35,919,000 to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate as proposed by the Senate instead of \$34,158,000

as proposed by the House. The additional funds are provided for comparability pay purposes in the event the appropriate authorities in House and Senate make such an adjustment in police salary schedules. It has long been the sense of Congress that products of American manufacture be purchased where feasible. The conferees direct the Capitol Police Board to conduct a study to determine the feasibility of utilizing only American-made motorcycles and bicycles and report its findings back to the Committees on Appropriations of the House and Senate.

OFFICE OF TECHNOLOGY ASSESSMENT SALARIES AND EXPENSES

Amendment No. 3: Appropriates \$21,970,000 for salaries and expenses, Office of Technology Assessment as proposed by the Senate instead of \$21,931,000 as proposed by the House.

CONGRESSIONAL BUDGET OFFICE SALARIES AND EXPENSES

Amendment No. 4: Appropriates \$23,188,000 for salaries and expenses, Congressional Budget Office as proposed by the Senate instead of \$23,133,000 as proposed by the House.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL SALARIES

Amendment No. 5: Appropriates \$9,103,000 for salaries, Office of the Architect of the Capitol as proposed by the Senate instead of \$8,927,000 as proposed by the House.

CONTINGENT EXPENSES

Amendment No. 6: Deletes authority contained in House bill for funds to remain available until expended for contingent expenses, Office of the Architect of the Capitol as proposed by the Senate.

CAPITOL BUILDINGS AND GROUNDS CAPITOL BUILDINGS

Amendment No. 7: Appropriates \$22,797,000 for Capitol buildings as proposed by the Senate instead of \$22,340,000 as proposed by the House.

CAPITOL GROUNDS

Amendment No. 8: Appropriates \$5,270,000 for Capitol grounds as proposed by the Senate instead of \$5,201,000 as proposed by the House.

SENATE OFFICE BUILDINGS

Amendment No. 9: Appropriates \$47,619,000 for Senate office buildings, of which \$7,709,000 shall remain available until expended, as proposed by the Senate, including authority to complete improvements to property acquired pursuant to section 1202 of Public Law 103-50. Inasmuch as the amendment relates solely to the Senate and in accord with long practice under which each body concurs without intervention, the managers on the part of the House, at the request of the managers on the part of the Senate, have receded to the Senate amendment.

CAPITOL POWER PLANT

Amendment No. 10: Appropriates \$33,437,000 for the Capitol power plant as proposed by Senate instead of \$33,342,000 as proposed by the House.

LIBRARY OF CONGRESS CONGRESSIONAL RESEARCH SERVICES SALARIES AND EXPENSES

Amendment No. 11: Appropriates \$60,084,000 for salaries and expenses of the Congressional Research Service instead of \$58,938,000 as proposed by the House and \$60,459,000 as proposed by the Senate. The conferees have

allowed \$216,000 for the COLA differential, \$455,000 for locality pay, \$200,000 for data base services, and \$275,000 for subscriptions.

GOVERNMENT PRINTING OFFICE CONGRESSIONAL PRINTING AND BINDING

Amendment No. 12: Appropriates \$89,724,000 for Congressional printing and binding, Government Printing Office as proposed by the Senate instead of \$87,717,000 as proposed by the House. The conferees direct that the Office of Law Revision Counsel and GPO should seek to improve the utility of the CD-ROM version of the cumulative edition of the United States Code, such as inclusion of the parallel reference tables. This is particularly important because the funding request of \$1.1 million to provide the traditional paper bound sets to depository libraries has not been provided. The conferees acknowledge that depository library priorities and needs may warrant some flexibility in managing the transition of cost-effective CD-ROM and other electric formats for certain publications. This may require the distribution of paper copies of the Code provided that the cost can be offset by other reductions to ensure that program resources are used most effectively.

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

Amendment No. 13: Adds a heading as proposed by the Senate.

Amendment No. 14: Appropriates \$3,230,000 and, in addition, \$7,000,000 by transfer to remain available until expended as proposed by the Senate instead of \$3,182,000 as proposed by the House. The \$7,000,000 is provided to begin an extensive renovation of the conservatory and the funds are transferred from funds previously made available without fiscal year limitation under the heading "Architect of the Capitol".

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

Amendment No. 15: Provides \$210,164,000 for salaries and expenses, Library of Congress as proposed by the Senate instead of \$207,857,000 as proposed by the House. Funds are provided in the event the Library of Congress police receive a salary adjustment under the terms of the first section of the Act entitled "An Act relating to the policing of the buildings and grounds of the Library of Congress", approved August 4, 1950 (2 U.S.C. 167), as amended by P.L. 100-135 (101 Stat. 811).

COPYRIGHT OFFICE

SALARIES AND EXPENSES

Amendment No. 16: Provides \$27,456,000 for salaries and expenses, Copyright Office as proposed by the Senate instead of \$27,186,000 as proposed by the House.

Amendment No. 17: Provides that \$2,911,000 of the funds made available to the Copyright office shall be derived by collections under 17 U.S.C. 111(d)(2), 119(b)(2), 802(h), and 1005 as proposed by the Senate instead of \$2,891,000 as proposed by the House.

Amendment No. 18: Provides that the total amount available to the Copyright Office shall be reduced by the amount collections are less than \$17,411,000 as proposed by the Senate instead of \$17,391,000 as proposed by the House.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

Amendment No. 19: Appropriates \$44,951,000 for salaries and expenses, books for the blind

and physically handicapped as proposed by the Senate instead of \$44,622,000 as proposed by the House.

Amendment No. 20: Provides that \$11,694,000 shall remain available until expended as proposed by the Senate instead of \$10,896,000 as proposed by the House.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

Amendment No. 21: Appropriates \$12,483,000 for structural and mechanical care, library buildings and grounds, Architect of the Capitol instead of \$9,860,000 as proposed by the House and \$13,483,000 as proposed by the Senate. The conferees have provided the funds for the COLA differential, locality pay, and \$2,500,000 for the renovation of the Coolidge Auditorium and the Whittall Pavilion.

Amendment No. 22: Provides that \$3,441,000 shall remain available until expended for structural and mechanical care instead of \$941,000 as proposed by the House and \$4,441,000 as proposed by the Senate.

GOVERNMENT PRINTING OFFICE

SUPERINTENDENT OF DOCUMENTS

Amendment No. 23: Appropriates \$32,207,000 for Superintendent of Documents, Government Printing Office as proposed by the Senate instead of \$30,600,000 as proposed by the House.

Amendment No. 24: Restores House bill language stricken by the Senate which provides that the objectives of the Government Printing Office Electronic Information Access Enhancement Act of 1993 shall be carried out through cost savings. The GPO is directed to submit in its fiscal year 1996 budget a description of program cost savings attributed to the funding of activities authorized under chapter 41 of title 44, United States Code.

GOVERNMENT PRINTING OFFICE

REVOLVING FUND

Amendment No. 25: Limits the full-time equivalent employment at the Government Printing Office to 4,293 instead of 4,193 as proposed by the House and 4,493 as proposed by the Senate.

Amendment No. 26: Amends language inserted by the Senate regarding the Federal printing procurement program. The conferees have agreed to amend the \$1,000 threshold exemption to include a "class of work" exemption, which should facilitate the process and reduce paperwork, and have added "duplicating" to the current definition of printing for procurement purposes. The conferees did not agree to expand the scope to include funds "made available from any source" to the procurement requirements set out in Sec. 207. Several agencies have expressed concerns with expanding the scope in this manner, including the Federal Prison Industries and the Department of Defense. The conferees direct that the Government Printing Office work out memorandums of understanding with these agencies, and others who have similar circumstances, that will enable those agencies to conduct their printing procurement programs in a cost-effective manner, and to achieve the specific objectives of agency missions. If such memorandums of understanding are not agreed upon, the conferees intend to review the matter again and legislation may be necessary. On the issue of distribution of copies of documents to the depository libraries, the Senate amendment was designed to reduce the "fugitive document" problem. But it does that by more or less restating current law. The conferees believe that the problem

isn't the law—the problem is *enforcement*. The Government Printing Office and the Joint Committee on Printing are in an ideal situation to help enforcement. GPO has a nationwide structure of procurement offices and printing plants. JCP has extensive connections with private printers, Federal printing executives, and the depositories. Instead of restating current law, JCP and GPO should be using their resources to ferret out the agencies and documents which are escaping the requirements of the depository law. Also, this amendment would create an unfair and unworkable situation by exposing low level Federal employees to violations of law where none are intended.

Finally, the conferees have agreed to incorporate "duplicating" within the definition of printing for procurement purposes. It should be noted this only applies in the case of procured printing. The conferees have not included the additional matter regarding "production of an image on paper or other substrate." That conceivably would encompass ADP output, CD-ROMs, video discs, and other material that fall within the Brooks Act or other statutes.

The conferees do not intend for this language to affect the internal printing or duplicating operations of the Federal Bureau of Investigation or any other law enforcement agencies in any way. Rather, this provision makes clear that procurement of printing and duplicating orders from sources external to the agency originating the procurement must be by or through the Government Printing Office. The current exceptions provided in section 207(a)(2) of Public Law 102-392 are retained.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

Amendment No. 27: Appropriates \$443,360,000 as proposed by the Senate instead of \$439,525,000 as proposed by the House.

Amendment No. 28: Provides that, notwithstanding 31 U.S.C. 9105, hereafter amounts reimbursed to the Comptroller General pursuant to that section shall be deposited to the appropriation of the General Accounting Office then available and shall remain available until expended, and not more than \$6,000,000 of such funds shall be available for use in fiscal year 1995 for the sole purpose of asbestos removal and related renovation of the General Accounting Office Building, as proposed by the Senate.

TITLE III—GENERAL PROVISIONS

Amendment No. 29: Provides a date change in Public Law 101-302 regarding Senate artwork as proposed by the Senate.

Amendment No. 30: Provides that \$2,015,000 shall be available to the Capitol Police Board under H. Con. Res. 550, from funds appropriated for Capitol Complex Security Enhancements, for the purchase and installation of magnetometers and x-ray machines. The Senate bill proposed that these funds be made available for the same purpose but did not cite the obligating authority. The conference agreement assigns that authority to the Capitol Police Board under the conditions of H. Con. Res. 550, agreed to in 1972, which established a funding mechanism for security equipment in the Capitol complex.

Amendment No. 31: Deletes language proposed by the Senate which provides that no funds appropriated in the 1995 Legislative Branch Appropriations Act may be used to carry out the provisions of sections 8335(d) or 8425(b), title 5, United States Code relating to the mandatory separation of a member of the Capitol Police. The Capitol Police Board is directed to review the statutory require-

ments, regulations, and practices of other Federal law enforcement agencies to ensure that the mandatory retirement regulations and practices of the Capitol Police are consistent with those of comparable organizations.

Amendment No. 32: Changes section number and provides that funds provided within certain appropriating paragraphs shall be withheld from obligation and shall only become available to the extent necessary to cover the costs of increases in pay and allowances authorized pursuant to the enactment of H.R. 4539, or pursuant to the pay order of the President or other administrative action pursuant to law as proposed by the Senate.

Amendment No. 33: Enacts the "Architect of the Capitol Human Resources Act" as proposed by the Senate, amended to exempt House of Representatives garage and parking lot attendants (including the Superintendent) with respect to whom supervision and all other employee-related matters are transferred to the House Sergeant at Arms, and also amended to include the Committees on Appropriations as recipients of the plan to be submitted, to simplify the procedure for consideration of alleged violations, and to enact conforming amendments. The House garage and lot attendants will be covered under the employment practice procedures that apply to House employees and exercise their rights pursuant to the provisions of Rule LI of the Rules of the House as if they were employees in employment positions in the House of Representatives.

The managers agree that the Architect of the Capitol (AOC) must take immediate action to correct pervasive and systemic management problems which led to numerous employee complaints of discrimination, harassment and unfair hiring and promotion practices. To address serious shortcomings in AOC personnel management systems, the managers have adopted the "Architect of the Capitol Human Resources Act" which is intended to codify those improvements which must be made within AOC. The legislation provides the Architect with one year to implement necessary reforms. The Architect has indicated that he already has in place, or intends to develop promptly: a position classification system, an office of Equal Employment Opportunity and an affirmative employment program, a training program, a career staffing plan including procedures for competitive hiring and promotion and a formal performance evaluation system. The managers understand that adoption of a formal performance evaluation system will require several months, both for the development of objective and accurate criteria for the many positions within AOC, and for the training of managers in carrying out evaluations. For this reason, the managers have agreed to the timeframe contained in the Act. However, the managers expect the Architect to adopt without delay those requirements under the Act that can be adopted now. The Architect has also established an Employee Assistance Program under the direction of a professional counselor. The managers suggest that the Architect work to restore employees' confidence that this program will be operated independently of the AOC personnel office and kept strictly confidential. The conferees agree that any cases relating to employees of the Architect now pending or on appeal pursuant to Public Law 102-166 should be disposed of through the procedures for resolving such matters specified in that Act.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1995 recommended

by the Committee of Conference, with comparisons to the fiscal year 1994 amount, the 1995 budget estimates, and the House and Senate bills for 1995 follows:

New budget (obligational) authority, fiscal year 1994	\$2,270,713,300
Budget estimates of new (obligational) authority, fiscal year 1995	2,509,703,500
House bill, fiscal year 1995	1,857,787,600
Senate bill, fiscal year 1995	2,368,796,100
Conference agreement, fiscal year 1995	2,367,421,100
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1994	+96,707,800
Budget estimates of new (obligational) authority, fiscal year 1995	-142,282,400
House bill, fiscal year 1995	+509,633,500
Senate bill, fiscal year 1995	-1,375,000

VIC FAZIO,
JAMES P. MORAN,
DAVID R. OBEY,
JOHN P. MURTHA,
BOB CARR,
MARTIN O. SABO,
BILL YOUNG,
RON PACKARD,
CHARLES H. TAYLOR,
JOSEPH M. MCDADE,

Managers on the Part of the House.

HARRY REID,
BARBARA A. MIKULSKI,
PATTY MURRAY,
ROBERT C. BYRD,
CONNIE MACK,
CONRAD BURNS,
MARK O. HATFIELD,

Managers on the Part of the Senate.

WAIVING CERTAIN POINTS OF ORDER AGAINST AND DURING CONSIDERATION OF H.R. 4624, DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 1995

Ms. SLAUGHTER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 465 and ask for its immediate consideration.

The Clerk read as follows:

H. RES. 465

Resolved, That during consideration of the bill (H.R. 4624) making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1995, and for other purposes, all points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived. The amendment numbered 1 in the report of the Committee on Rules accompanying this resolution may be offered only by a Member designated in the report, may amend portions of the bill not yet read for amendment, shall be considered as read, shall be debatable for two hours equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject

to a demand for division of the question in the House or in the Committee of the Whole. Points of order against the amendments printed in the report of the Committee on Rules for failure to comply with clause 2 of rule XXI are waived.

The SPEAKER pro tempore. The gentleman from New York [Ms. SLAUGHTER] is recognized for 1 hour.

Ms. SLAUGHTER. Mr. Speaker, during consideration of this resolution, all time yielded is for the purpose of debate only. I yield the customary 30 minutes, for the purpose of debate only, to the gentleman from Florida [Mr. GOSS], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 465 is an open rule providing for the consideration of H.R. 4624, making appropriations for the Departments of Veterans Affairs and Housing and Urban Development and for sundry independent agencies, boards, commissions, corporations and officers for fiscal year 1995.

Since general appropriations bills are privileged, the legislation will be considered under the normal legislative process for consideration of appropriations bills. The time devoted to general debate will be determined by an unanimous consent request. The bill will be open to amendment under the 5 minute rule. Any amendment which does not violate the rules of the House or is printed in the Rules Committee report will be in order.

The rule waives points of order under clause 2 and clause 6 of Rule XXI against all provisions of the bill. Clause 2 of Rule XXI prohibits unauthorized appropriations or legislative provisions in general appropriations bills. The Appropriations Subcommittee has requested this waiver because many housing, environmental, space, science, and emergency management programs covered by the bill lack authorizations. Clause 6 of Rule XXI prohibits reappropriating unexpended balances of appropriations in general appropriations bills.

The rule provides for Representative ROEMER to offer en bloc amendments on the space stations. The en block amendments, printed in the report to accompany the rule, shall be considered as read when offered, shall be debatable for 2 hours equally divided and controlled by the proponent and an opponent, are not subject to a demand for a division of the question, and may amend portions of the bill not yet read for amendment.

Finally, the rule waives clause 2 of Rule XXI, prohibiting unauthorized appropriations or legislative provisions in a general appropriations bill, against the amendments printed in the report.

Mr. Speaker, H.R. 4624 provides \$70.4 billion in discretionary spending and \$20.1 billion in mandatory spending in fiscal year 1995 for the activities of the Departments of Veterans Affairs and

Housing and Urban Development and nineteen independent agencies and offices including the National Aeronautics and Space Administration, the Environmental Protection Agency, the Federal Deposit Insurance Corporation, and the National Science Foundation. This open rule will allow full and fair debate on the provisions of this important bill.

I ask my colleagues to support the rule so that we may proceed with consideration of the merits of this legislation.

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

Mr. Speaker, I am told that back in the good old days, it was a rare occasion when the House had to adopt a rule to provide for the consideration of an appropriations bill. The authorizing committees did their job, the appropriators did their job, and the full House did its job—all within the structure established by the rules of the House.

Now it is a rare occasion for an appropriation bill to be considered by the House without first adopting a rule. Why? Because almost every appropriation bill contains legislative provisions and/or provides unauthorized appropriations. And as my colleague from New York, Ms. SLAUGHTER, has explained, this bill is no exception.

When we asked for a list of those provisions which were not authorized in this VA-HUD appropriations bill, we, instead, received a list of those programs which were authorized because the list of unauthorized appropriations was too long. In fact, somewhere in the neighborhood of 95 percent of this bill is unauthorized. Part of that, of course, is the hearings on Whitewater RTC issues.

I certainly don't want to point the finger of blame, but I do want to make the point that this trend reinforces the urgent need for congressional reform legislation—which is hanging out there in limbo. We need to get the House back on the right track so that we can perform our legislative functions in a responsible, deliberative manner.

Still, I am pleased that we are considering this and most of this year's appropriations bills under an open amendment process. And I understand the rationale for allowing waivers for the amendment to be offered by Chairman STOKES and for the amendment to be offered by Mr. ROEMER and Mr. ZIMMER dealing with funding for the space station. Of course, I should note that I am opposed to the Roemer/ZIMMER amendment, which proposes to cut the space station for fiscal reasons but actually saves no money, because it allows the funds to be reallocated to other programs. I do, however, see the need to have this debate on the House floor and let Members work their will. In granting the necessary waivers for these amendments, the Rules Committee merely afforded the same privilege

to members seeking to offer amendments that was granted to the committee in developing its bill. That's certainly fair. Mr. Speaker, I do understand the difficulties the appropriators faced in crafting this bill, and clearly there are not enough resources to go around. But I remain greatly concerned about the prioritization of veterans funds—with projects of great need apparently losing out to those of lesser immediate need but perhaps of more political merit. I am especially troubled by the sometimes not-so-subtle pressure that's being brought on Members with serious veterans needs—as Members are told that all veterans projects are tied up in passage of the President's health care bill. In my opinion, the needs of people who risked their lives for our country should not be held hostage to a political struggle. Mr. Speaker, I will not oppose this rule.

□ 2240

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

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

The previous question was ordered.

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

The resolution was agreed to.

A motion to reconsider was laid upon the table.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of February 11, 1994, June 10, 1994, and under a previous order of the House, the following Members are recognized for 5 minutes each.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. GOSS) to revise and extend his remarks and include extraneous material:)

Mr. MICHEL, for 5 minutes each day, on today, June 29, and June 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GOSS) and to include extraneous matter:)

Mr. GILMAN in three instances.
Mr. GUNDERSON.
Mr. YOUNG of Alaska.
Mr. EWING.

Mr. LAZIO.
Mr. MCCOLLUM.
Mr. KLUG.
Mr. COMBEST.
Mr. HYDE.
Mr. CRAPO.
Mr. BOEHLERT.
Mr. SOLOMON.
Mr. HUNTER.
Mr. SMITH of New Jersey.
Mr. DUNCAN.
Mrs. MORELLA in three instances.
Ms. PRYCE of Ohio.
Mr. GINGRICH.
(The following Members (at the request of Mr. OLVER) and to include extraneous matter:)
Mr. LANTOS.
Mr. TOWNS in six instances.
Mr. SAWYER.
Mr. OBEY.
Mr. KENNEDY.
Mr. FRANK of Massachusetts.
Mr. UNDERWOOD.
Mrs. KENNELLY.
Mr. STARK in three instances.
Mr. FROST.
Mr. SCHUMER.
Mr. DOOLEY.
Mr. NEAL of Massachusetts.
Mr. MONTGOMERY.
Mr. ANDREWS of New Jersey.
Ms. SLAUGHTER.
Mr. VISCLOSKY.
Ms. SHEPHERD.
Mr. HINCHEY.
Mr. BARCIA.
Ms. PELOSI.
Mr. FAZIO.
Mr. GEJDENSON.
Mr. GEPHARDT.
Mr. LANCASTER.

ENROLLED BILL SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2559. An act to designate the Federal building located at 601 East 12th Street in Kansas City, Missouri, as the "Richard Bolling Federal Building" and the United States Courthouse located at Ninth and Locust Streets, in Kansas City, Missouri, as the "Charles Evans Whittaker United States Courthouse."

ADJOURNMENT

Mr. BARLOW. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 46 minutes p.m.), the House adjourned until Wednesday, June 29, 1994, at 10 a.m.

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. GORDON: Committee on Rules. House Resolution 466. Resolution waiving certain points of order against the bill (H.R. 4649) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103-564). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 467. Resolution providing for consideration of the bill (H.R. 4600) to amend the Congressional Budget and Impoundment Control Act of 1974 to provide for the expedited consideration of certain proposed rescissions of budget authority (Rept. 103-565). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 468. Resolution providing for consideration of the bill (H.R. 4299) to authorize appropriations for fiscal year 1995 for intelligence, and intelligence-related activities of the U.S. Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes (Rept. 103-566). Referred to the House Calendar.

Mr. FAZIO: Committee of Conference. Conference report on H.R. 4454. A bill making appropriations for the legislative branch for the fiscal year ending September 30, 1995, and for other purposes (Rept. 103-567). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

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

By Mr. SMITH of New Jersey (for himself, Mr. ZIMMER, and Mr. SAXTON):

H.R. 4661. A bill to establish congressional findings and amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation and disposal of municipal solid waste, and for other purposes; to the Committee on Energy and Commerce.

H.R. 4662. A bill to amend the Solid Waste Disposal Act to provide congressional authorization of State control over transportation and disposal of municipal solid waste, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HAMILTON:

H.R. 4663. A bill to provide authority to control exports, and for other purposes; to the Committee on Foreign Affairs.

By Mr. HUTTO (for himself and Mr. PETERSON of Florida):

H.R. 4664. A bill to amend the Tariff Act of 1930 to provide relief from antidumping and countervailing duty orders in cases of short supply; to the Committee on Ways and Means.

By Mr. YOUNG of Alaska:

H.R. 4665. A bill to amend the Alaska Native Claims Settlement Act, and for other purposes; to the Committee on Natural Resources.

By Mr. ANDREWS of Maine:

H.R. 4666. A bill to amend title 46, United States Code, to prohibit overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards; to the Committee on Merchant Marine and Fisheries.

By Mr. ANDREWS of New Jersey (for himself, Mr. WELDON, and Mr. KOLBE):

H.R. 4667. A bill to allow State and local governments to design their own programs

for moving welfare recipients from dependency to economic self-sufficiency, and to allow low-income individuals to use personal savings as a foundation for achieving independence; jointly, to the Committees on Ways and Means, Banking, Finance and Urban Affairs, Agriculture, Energy and Commerce, and Education and Labor.

By Mr. HUGHES (for himself and Mr. PALLONE):

H.R. 4668. A bill to make improvements in the protection of coastal waters, enhance implementation of the Marine Plastic Pollution Research and Control Act of 1987, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. SANDERS (for himself, Mr. ANDREWS of Maine, Ms. COLLINS of Michigan, Mr. DEFAZIO, Mr. DELUMS, Mr. ENGEL, Mr. FOGLIETTA, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HINCHAY, Mr. JOHNSTON of Florida, Mrs. KENNELLY, Mr. KLECZKA, Mrs. MINK of Hawaii, Mr. MORAN, Mr. NADLER, Mr. OBERSTAR, Mr. OBEY, Mr. OLVER, Mr. OWENS, Mrs. UNSOELD, Mrs. SCHROEDER, Mr. SHAYS, Ms. VELAZQUEZ, Mr. VENTO, Mr. WASHINGTON, and Mr. YATES):

H.R. 4669. A bill to amend the Federal Food, Drug, and Cosmetic Act to require labeling for milk and milk products produced from cows which have been treated with synthetic bovine growth hormone, to direct the development of a synthetic bovine growth hormone residue test, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SANGMEISTER (by request):

H.R. 4670. A bill to amend title 38, United States Code, to provide an increase in the specially adapted housing grant; to the Committee on Veterans' Affairs.

H.R. 4671. A bill to amend title 38, United States Code, to provide direct loans and set asides for disabled veterans; to the Committee on Veterans' Affairs.

By Mr. GEJDENSON:

H. Con. Res. 262. Concurrent resolution to express the sense of the Congress that marinas should not be treated as offshore facilities for purposes of financial responsibility requirements of the Oil Pollution Act of 1990; jointly, to the Committees on Merchant Marine and Fisheries and Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII.

Mr. CARR introduced a bill (H.R. 4672) to authorize the Secretary of Transportation to

issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade and on the Great Lakes and their tributary and connecting waters in trade with Canada for each of 3 barges; to the Committee on Merchant Marine and Fisheries.

ADDITIONAL SPONSORS

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

H.R. 123: Mr. MCDADE, Mr. LUCAS, Mr. KANORSKI, and Mr. NUSSLE.

H.R. 349: Mr. BARRETT of Nebraska.

H.R. 404: Mr. GRANDY.

H.R. 431: Mr. MARKEY.

H.R. 642: Mr. OLVER.

H.R. 702: Ms. BROWN of Florida and Mr. MANN.

H.R. 1475: Mr. GRANDY.

H.R. 1673: Mr. SHAYS.

H.R. 1722: Mr. MINETA.

H.R. 1900: Mr. SKELTON.

H.R. 2873: Mr. KIM, Mr. ANDREWS of New Jersey, and Mr. COLLINS of Georgia.

H.R. 2967: Mr. BEILENSEN and Mr. OBERSTAR.

H.R. 3121: Mr. MONTGOMERY, Mr. CLINGER, and Mr. RIDGE.

H.R. 3271: Mr. MOORHEAD.

H.R. 3288: Mr. SWETT.

H.R. 3293: Mr. MCCRERY.

H.R. 3434: Mr. GUTIERREZ and Mr. VENTO.

H.R. 3446: Mr. ARCHER.

H.R. 3526: Mr. DE LUGO, Mr. NEAL of Massachusetts, Ms. SHEPHERD, Mr. ENGEL, Mr. HAMBURG, Mr. GEJDENSON, Mr. VENTO, Mr. MARTINEZ, Mr. BURTON of Indiana, Mr. STUDDS, Mr. MOORHEAD, Mr. COYNE, and Mr. KLEIN.

H.R. 3580: Mr. BLUTE.

H.R. 3611: Mr. CONDIT.

H.R. 3630: Mr. THOMPSON, Ms. FURSE, and Mr. VENTO.

H.R. 3797: Mr. ROYCE, Mr. THOMAS of Wyoming, Mr. CRAPO, and Mr. EMERSON.

H.R. 3873: Mr. MARTINEZ, Ms. WATERS, and Mr. YATES.

H.R. 3880: Mr. DELAY.

H.R. 4040: Mr. FILNER and Mrs. UNSOELD.

H.R. 4162: Mr. INSLEE.

H.R. 4198: Mr. BALLENGER.

H.R. 4233: Mr. BONILLA and Mrs. THURMAN.

H.R. 4251: Mr. PAYNE of Virginia.

H.R. 4271: Mr. MANN.

H.R. 4281: Mr. MCHUGH and Mr. STRICKLAND.

H.R. 4314: Mr. SANDERS.

H.R. 4386: Mr. STUPAK, Mr. SHAYS, Mr. SPENCE, Ms. KAPTUR, Mrs. MALONEY, Mr. WASHINGTON, and Mr. MINETA.

H.R. 4388: Mr. BEREUTER.

H.R. 4412: Mr. BONILLA.

H.R. 4493: Mr. BARRETT of Wisconsin.

H.R. 4514: Mr. OLVER and Mr. GALLEGLY.

H.R. 4589: Mr. CASTLE.

H.R. 4592: Mr. DELAY and Mr. INGLIS of South Carolina.

H.R. 4605: Mr. LAFALCE.

H.J. Res. 38: Mr. SCHAEFER.

H.J. Res. 356: Mr. McNULTY and Mr. BLACKWELL.

H.J. Res. 378: Mr. SISISKY, Mr. BEVILL, Mr. KING, Mr. LIVINGSTON, Mr. PETE GEREN of Texas, Mr. DICKS, Mr. SMITH of New Jersey, Mr. STUPAK, Mr. WILSON, Mrs. MORELLA, Mr. FLAKE, Mr. MINETA, and Mr. WASHINGTON.

H. Con. Res. 148: Mr. KLUG and Mr. FAWELL.

H. Con. Res. 166: Mr. WELDON, Mrs. UNSOELD, and Mr. SUNDQUIST.

H. Con. Res. 233: Mr. MINETA, Mr. MORAN, Ms. MCKINNEY, Mr. HAMBURG, Mr. DICKS, Mr. CONYERS, Mr. PICKLE, Mr. SCHUMER, Mr. FOGLIETTA, Mr. LAUGHLIN, Mr. BLUTE, and Mr. SAWYER.

H. Con. Res. 243: Mr. STEARNS and Mr. MCCOLLUM.

H. Con. Res. 255: Mrs. MALONEY, Mr. NEAL of Massachusetts, and Mr. ROSE.

H. Res. 291: Mr. YOUNG of Alaska.

H. Res. 463: Ms. SHEPHERD.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 4624

By Mr. ROEMER:

—Page 56, line 16, strike "\$5,592,900,000" and insert "\$4,653,200,000".

—Page 57, line 4, strike "\$5,901,200,000" and insert "\$6,727,587,000".

—Page 57, line 25, strike "\$2,549,587,000" and insert "\$2,662,900,000".

—Page 60, after line 12, insert the following: None of the funds made available in this Act to the National Aeronautics and Space Administration may be used for the space station program.

H.R. 4650

By Mr. EHLERS:

—Page 107, after line 4, insert the following new section:

SEC. 8121. None of the funds made available in this Act may be used by the Department of Defense to sell any surplus mercury.